

Coeur d'Alene

CITY COUNCIL MEETING

January 2, 2013

MEMBERS OF THE CITY COUNCIL:

Sandi Bloem, Mayor

Councilmen Edinger, Goodlander, McEvers, Kennedy, Gookin, Adams

CONSENT CALENDAR

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE LIBRARY COMMUNITY ROOM

December 18, 2012

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Library Community Room December 18, 2012 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

Loren Ron Edinger) Members of Council Present
Mike Kennedy)
Woody McEvers)
Dan Gookin)
Steve Adams)
Deanna Goodlander)

CALL TO ORDER: The meeting was called to order by Mayor Bloem.

INVOCATION: Led by David Warnich, New Life

PLEDGE OF ALLEGIANCE: The pledge of allegiance was led by Councilman Adams.

PRESENTATION OF MOBILE SANTA ROUTE: Firefighter McAuliff presented the updated mobile Santa web site www.cdafire.org/santa.html. He stated that Santa now has a GPS chip that will allow citizens to track his movement through town on December 19-23, 2012. Mr. McAuliff encouraged citizens to stop the truck to meet Santa and donate food for the local food bank. Members of Local 710 donate their time and have purchased the fire truck utilized for this event.

PUBLIC COMMENTS:

FRONT AVENUE PROJECT: John Montandan, 1010 Sherman Avenue, stated that he owns a building located at Front Avenue and 4th Street that he currently rents to the Berry's. According to the Front Avenue plan, his building will not be allowed a curb cut. He stated that the current curb cut has been there 40 years, and his renters need to be able to drive into the garage for furniture deliveries. Mr. Montandan stated that if he does not get a curb cut he will lose his renter, and requested the Council allow a curb cut at this location.

Carol Berry, 115 S. 4th Street, rents Mr. Montandan's property for the Wigget Antique Market Place. She likes their location and would like to stay there; however, needs the lower access for pickup and delivery of furniture. The building is old and is very difficult, and sometimes impossible to move large pieces from downstairs to upstairs.

Councilman Gookin requested an explanation of what a legal taking amounts to. City Attorney Mike Gridley stated that under the constitution the government could not take something away from a citizen without just compensation. City Administrator Wendy Gabriel stated that this topic would be discussed at the workshop on December 27, 2012 and that the City is still working on solutions with property owners. Mrs. Gabriel clarified that the elimination of the curb cut would not eliminate the garage or pedestrian access to the garage, and the plan included an allowance for a loading zone. Ms. Berry stated that their current experience with loading zones is that they are rarely open for that use. Councilman Edinger stated that he believes it would be difficult to get furniture from the basement to the front loading zone and feels the garage access would be better. Mayor Bloem asked if the furniture on the upper level was loaded through the garage or through the upper access. Ms. Berry stated those items are loaded from the alley. Councilman Adams asked about prescriptive rights and if the curb cut would be determined as a prescriptive right. Mr. Gridley stated that he would need to look at the history of the use and that prescriptive rights normally apply if it were the only access to the property. Additionally, since this is city right-of-way one would generally not allow for prescriptive rights. Mrs. Gabriel stated that she would take some pictures of the specific circumstances to share with the Council at the December 27th meeting. Councilman Kennedy stated that one of the challenges is that a vehicle parks on the sidewalk at the garage entrance and impedes the pedestrian use of the sidewalk. Ms. Berry stated that they are aware that they are not allowed to block the alley or the sidewalk or they will be ticketed.

LID CONCERNS: Lorna Kaiser, 8635 E. Sunnyside Road, stated she is concerned about the LID issue and that the state should change those laws. She believes people already pay taxes on their property and they should not have to pay more. She is concerned that there is authority to assess an LID up to the value of someone's home. Ms. Kaiser stated that the power should go back to the people, that cities should not have authority to create an LID and believes it is a double tax. Ms. Kaiser asked that the Council consider her statements when voting on LID's. Councilman Gookin stated that previous LID's have been used to get people off septic tanks, provide improvements to 4th Street, and Sherman Avenue.

RELIGIOUS CONCERN: Dave Barger, 530 W. Harrison Avenue, wished all a Merry Christmas and prays for the entire nation for healing. He believes that the human mission is to be missionaries of the church and that the 501 C3 corporate church should not have been created. Mr. Barger presented a document from Blackwater Backup.

CONSENT CALENDAR: Motion by Kennedy, seconded by Goodlander to approve the consent calendar as presented.

DISCUSSION: Councilman Gookin believes that that the bills submitted should be a formal public presentation at least once a quarter.

1. Approval of minutes for November 29, 2012 and December 4, 2012.
2. Approval of Bills as Submitted
3. Annual Road and Street Financial Report
4. CONSENT RESOLUTION NO. 12-053 A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW

MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING APPROVING AN AGREEMENT WITH KOOTENAI COUNTY FOR BILLING SERVICES FOR COMMERCIAL SOLID WASTE ACCOUNTS WITHIN THE CITY LIMITS; AND APPROVING A MEMORANDUM OF AGREEMENT FOR PUD-1-11 WITH NORTH IDAHO COLLEGE.

5. Setting of a public hearing on January 15, 2013 for the 2013-2018 CDBG Consolidated Plan and the 2013 Action Plan

ROLL CALL: Goodlander Aye; Gookin Aye; Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye. Motion carried.

COUNCIL ANNOUNCEMENTS:

Councilman McEvers stated, in jest, that with the end of the world coming he wanted to say he appreciated everyone and cares for the community. He wished the community Happy Holidays.

Councilman Goodlander expressed her gratefulness for the community and that she is proud of what they have accomplished. She wished the community a Merry Christmas.

Councilman Adams, in honor of Charles Shultz of Charlie Brown fame, expressed his concern with the meaning of Christmas and recommended the reading of Luke, Chapter 2, and wished the community a Merry Christmas.

Councilman Gookin wished the community Happy Holidays. He stated that there have been a lot of items within the blogs regarding the recent embezzlement issue and that he has said some things in the paper that have been questioned. He explained that he believes the City Council should conduct an audit, report, etc. about what went on and how it went on, and how the city is fixing things, not that people should be fired. Mr. Gookin wants the public to be informed in a public meeting and feels he needs more data to share with citizens. He recommends the city have an independent body appointed by the City Council to conduct an investigation.

Motion by Gookin, seconded by Adams to place the discussion of appointing an independent body to perform an investigation of the embezzlement on the next City Council meeting agenda.

DISCUSSION: Councilman McEvers explained that the City Council was apprised of the situation in executive session and what preventative measures were implemented. Councilman Gookin stated that he envisions a group of volunteer concerned citizens with financial expertise to perform the investigation. Councilman Gookin stated that he would like the result of the investigation to be a public presentation of information and to demonstrate that our staff is doing their job. Mayor Bloem stated that a full presentation would be made at a City Council meeting after the sentencing, which is scheduled for February 5. Councilman Kennedy suggested that the discussion of an independent investigation take place after the sentencing.

Motion by Gookin, seconded by Adams to withdraw the motion to place the discussion of appointing an independent body to perform an investigation of the embezzlement on the next City Council meeting agenda.

COUNCIL ANNOUNCEMENTS CONT.:

Councilman Edinger wished all a Merry Christmas and Happy New Year. Mr. Edinger suggested that some of the questions regarding the audit could come forward under the General Services section of the agenda tonight.

Councilman Kennedy stated that in light of the tragedy in Connecticut, our Police Department has proactively met with the School District to discuss increased awareness and conducted a review of school security. He wished a Merry Christmas to all.

ADMINISTRATOR'S REPORT: The McEuen design project is at the 90% complete milestone, therefore a City Council workshop will be held on December 27th at the Parkview Towers, 3rd Floor at 7:30 a.m. The City anticipates completing the construction documents in early January and advertising for bids later in January. Santa and members of the Coeur d'Alene Firefighters Local 710 will be around town collecting food and cash donations for the food bank December 19-23, 2012. Santa will start out at K-Mart from 4:15 p.m. to 4:30 p.m. each day for quick pictures. Santa's journey will last from 4:30 – 8:30 p.m. each evening. To track Santa's location, visit www.cdafire.org. The City has added a new feature to the city's online communication channels: City Council in Brief. This is a quick summary of what happened at the Council meeting. It will be posted on the website and the blog. Lt. Bill McLeod graduated from the FBI National Academy last Friday. The FBI National Academy is the most prestigious command school in the world and is 10 weeks long. Over 30 countries and 49 states had command staff attending the academy session. Thank you to all of the officers, civilians, and service clubs who volunteered their time for this year's Holidays and Heroes program. Police officers and firefighters volunteer their time to make this event special and are happy to work in partnership with businesses, civic groups, and citizens in the surrounding area to make a needy child's Christmas a little bit brighter. City of Coeur d'Alene Firefighters recently participated in the annual "Fill the Boot" campaign for Muscular Dystrophy. Members of the Fire Department also participate in the Muscular Dystrophy summer camp programs where they are mentors to children with the disease. Members of Local 710 raised \$21,768 -- double what they raised last year. On Tuesday, December 25th, Coeur d'Alene City Hall and most other city offices and facilities will be closed for the Christmas holiday. Emergency calls for Police, Fire, and Streets can be made by dialing 9-1-1. City of Coeur d'Alene garbage pickup will also be delayed by one day. City Hall and other city facilities will open Wednesday, December 26th, at 8:00 a.m. The City of Coeur d'Alene is a proud contributor to the Kootenai County United Way campaign. Between payroll deductions and golf tournament proceeds, the city provided \$5,935.00 to local organizations through United Way. The League of American Bicyclists has recognized Coeur d'Alene as a bicycle friendly community, giving it a 2012 Bronze award. The bronze level recognizes the city's commitment to improving conditions for bicycling through investment in bicycling promotion, education programs, infrastructure, and pro-bicycling policies. The Building Department received a great kudos recently from Jack Johnston of Northwest Consulting Services, LLC., wherein he stated that during his complex commercial permit process he encountered professionalism of staff, specifically Ted Lantzy, Steve Johnson, and Vicky Walter. Through the month of December, there is an exhibit in the Parkside Gallery on the lower level of the Coeur d'Alene Public Library that features artwork created by fifth-graders at the Sorensen Magnet School of the Arts and Humanities. "G-art-bage! – One Person's Trash is Another's Art" reimagines famous paintings using recycling materials. The project was funded through a grant provided by the EXCEL Foundation. The public is encouraged to stop by the

library and view the art. Congratulations to the citizens of Coeur d'Alene in winning against the city of Spokane in the 2nd annual Mayor vs. Mayor "ring off" for the Salvation Army. Congratulations to Mayor Bloem in raising \$9,567 for the community.

RESOLUTION 12-055

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN AGREEMENT FOR AUDIT SERVICES, WITH MAGNUSON, MCHUGH & COMPANY, PA, ITS PRINCIPAL PLACE OF BUSINESS AT 2100 NORTHWEST BLVD., COEUR D'ALENE, ID 83814.

Councilman Kennedy stated the General Services Committee discussed this item and recommended approval of this agreement. Finance Director Troy Tymesen stated that audit services have changed and developed over the years; however, the city is still required to conduct an annual Financial Statement Audit. This type of audit assures that all of the city's financial statements accurately reflect the state of the city's finances. Additionally, the city receives more than \$500,000 in federal funds, so it is required to conduct a single audit. Both audits do not look at asset theft, that type of an audit would be a forensic audit. Forensic accounting is a specialized side of audit and accounting. The reason organizations conduct a forensic audit is that they are concerned that someone is conducting fraud/theft. The required audits are not meant to uncover asset theft, as they are meant to ensure that the financial status reflects what is reported. Mr. Tymesen assured the Council that the City has checks and balances in place.

Mr. Tymesen stated that he would refrain from commenting on specifics of the embezzlement case until after sentencing. Tymesen stated that the cost difference between a financial statement audit and a forensic audit will vary depending on the size of the organization and the level of detail requested of the audit. He estimated it could cost \$30,000 to \$100,000. The City has shut down the automated clearinghouse process, and has partnered with the bank in resolving checks and balance issues.

Mr. Tymesen stated that Magnuson and McHugh has conducted the city's audit since 1999 and is able and capable to continue services. They also provide services to other area cities. Mr. Tymesen informed the Council that the audit needs to be completed by March 10, 2013. Councilman Goodlander reiterated that our A1 bond rating is based on audit information, and demonstrates how creditworthy the city is, which is encouraging to those interested in investing in municipal bonds. Councilman Gookin asked for an explanation of the city's policy regarding RFP's for audit services. Mr. Tymesen explained that the Idaho State Statutes provides that RFP's are not required for professional services agreements. He explained that there are not many agencies capable of doing the city audit in the area, and has contacted one company out of Missoula, who was not willing to provide a quote as they didn't feel they could beat the price of Magnuson and McHugh. Councilman Gookin asked the auditor, Ms. Hackwith, to clarify how the payment policy related to McEuen Park would work, since LCDC will pay the vendor directly and the park is an existing asset. Ms. Hackwith stated that it would be a donated asset, and would be reported in the financial statements within the GASB 34 financial statements. Ms. Hackwith stated that she is aware that the public perception is that auditors are to looking for fraud during financial statement audits. She has clarified in her annual presentations to the City what a financial statement review includes and

clarified that they are not performed to seek fraud, rather so that financial statements can be relied upon to be materially correct. Ms. Hackwith clarified that they do confirm that the amount of money staff says is in the bank is in the bank and that they do a random sampling of transactions. She did confirm that a person would need to be a trained forensic auditor and the costs would vary dependent upon where the concerns are and what type of recommendations are sought. Councilman Kennedy felt that after the City Council review of the embezzlement, the Council could determine if there is a need to conduct the forensic audit. Ms. Hackwith explained that auditing firms are required to undergo a peer review audit every three years. The peer review process includes a review of their independence and objectivity with client relationships. Councilman Adams asked if it would be acceptable for an independent body to audit Magnuson and McHugh's work. Ms. Hackwith stated that it would be difficult for a citizen group to audit their independent audit due to the specialty of services. Councilman McEvers asked when it would be recommended to pay to conduct a forensic audit. Ms. Hackwith stated that an internal auditor position would make more sense, that would way they would know the systems and would be specifically trained to the organization.

Motion by Kennedy seconded by Adams to adopt Resolution 12-055.

DISCUSSION: Councilman Adams reiterated that there were many good questions asked at the General Services Committee meeting and recommended citizens watch that meeting on the city website or catch it on Channel 19. Additionally, he is in support of Councilman Gookin's request for a quarterly financial presentation.

Motion by Gookin seconded by Adams to direct staff to obtain quotes for auditing services. Motion failed.

DISCUSSION: Councilman Gookin stated that he felt that Magnuson and McHugh has been doing the audit for a long time and he feels another set of eyes would be beneficial and the city should let firms know we are interested in accepting bids. Councilman Edinger stated that Mr. Tymesen had contacted other firms, such as the firm out of Missoula, who would not submit a bid. Councilman Edinger believes that Magnuson and McHugh has done an excellent job over the years, and to change based on one incident would be the wrong thing to do. He would not be in favor of another group doing the audit. Councilman Kennedy reminded the City Council that there is a tight timeline to complete the audit and that 97% of audits do not find fraud.

ROLL CALL: Gookin No; Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye; Goodlander Aye. Motion carried.

RECESS: The Mayor called for a 5-minute recess at 7:51 p.m. The meeting resumed at 7:58 p.m.

RESOLUTION 12-054

A RESOLUTION DECLARING THE INTENTION OF THE MEMBERS OF THE COUNCIL OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TO CREATE LOCAL IMPROVEMENT DISTRICT NO. 151; DESCRIBING THE BOUNDARIES OF THE PROPOSED DISTRICT AND THE PROPERTY PROPOSED TO BE ASSESSED;

GENERALLY DESCRIBING THE IMPROVEMENTS PROPOSED TO BE CONSTRUCTED; STATING THE PORTION OF THE TOTAL COST WHICH WILL BE PAID BY THE LEVY OF ASSESSMENTS AND THAT WHICH WILL BE PAID FROM OTHER SOURCES; DESCRIBING THE METHOD OF ASSESSMENT; STATING THE TIME AND PLACE WHEN AND WHERE PROTESTS MAY BE FILED AND WHEN AND WHERE A PUBLIC HEARING WILL BE HELD TO CONSIDER ANY SUCH PROTESTS; PROVIDING FOR THE EFFECTIVE DATE OF THIS RESOLUTION; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

Mrs. Gabriel stated that the purpose of tonight's resolution includes the continued discussion regarding the LID. With approval, the LID formation would continue and would allow notices to go to property owners and allow for the setting of the public hearing. At the public hearing on January 2, the Council will be allowed to accept protest of LIDs, and then at the January 15 public hearing, the Council may consider any protests and discuss the formation of the LID. Estimated project cost is still \$2.9 million, with the LID share at 39% (\$1,126,800) at \$400/front foot and the city's share at 61% (\$1,773,200) as a starting point. Discussions will continue regarding the front foot costs and percentage that should be included in the LID. Phil Boyd, Welch Comer Engineers, explained that changes to the LID boundary include two parcels based on where the improvements were occurring. Mr. Boyd stated improvements would be contained to Front Avenue public rights-of-way. Mr. Boyd also reiterated that the \$400/front foot costs were based on prior LID cost examples, such as Sherman Avenue and Lakeside Avenue.

Mrs. Gabriel requested the Council approve the Resolution, which still allows for amendments to costs moving forward. City Council can request staff to bring different cost scenarios to the next City Council meeting. Mrs. Gabriel clarified that at the January 15th public hearing, the City Council will consider the ordinance with the costs as presented tonight, or with a new cost scenario, or not at all.

Councilman Gookin questioned whether the agreement for design services should have been brought back with an amendment, since the \$400,000 design costs are now being included in the LID cost estimates. Mrs. Gabriel explained that the original concept was a whole project. What is currently presented are items that can be funded in the LID and that there should be an amendment to the contract to add the costs of forming an LID. Mr. Boyd explained that the distinction between the removal of the 2nd Street parcels and keeping the Parkside frontage in the LID, is that the road will be completely removed and replaced in front of Parkside and no improvements will be added in front of the 2nd Street parcels. Ms. Quade stated that the LID is based on benefits derived, meaning that it includes the benefits of the entire project, not individual property benefit. Councilman Gookin stated that he does not agree with including Parkside since the street is being paid for by the city and he does not agree they are receiving the same benefit as the other parcels. Ms. Quade stated that the City Council would be able to make the determination as to the benefit derived per property at the next City Council meeting. She clarified that all properties would stay within the LID and that the City Council will need to stay within the bounds of the law and have a reasonable basis for their determination of benefit derived. Mr. Boyd clarified that the angled parking is included in front of Parkside, which is also a benefit as it provides additional parking stalls.

Councilman Kennedy expressed that he wants to move forward with the LID and wants the costs to be lower. Mr. Boyd stated that to lower the costs within the LID will required a change in the scope

of work and/or the city portion of the project would need to go up. Mr. Dobler reiterated that the LID's have historically had combined funding sources such as grants, impact fees, general fund, and the City Council has always determined the fairness of the LID participation. Ms. Quade stated that the Idaho code allows the participation amount to be equal to the benefit received but no higher; however, the City Council can come in with a lower number. Mrs. Gabriel clarified that the resolution calls out that the city's portion of funding will come from the General Fund, as a place holder; however, she will bring back funding options at the January 2 meeting. Mrs. Gabriel stated that the City has not formally asked LCDC for funding, as the project was not far enough along. Mrs. Gabriel assured the City Council that LCDC is still an option and that additional information regarding design and funding will be presented at the December 27th meeting. Councilman Kennedy stated that he believes we should ask LCDC for funding. Councilman Edinger is in favor of the LID but believes it should be less and that LCDC should provide funds toward the project. Councilman Gookin stated that LCDC was formed to do this project, so they should fund the project. Councilman Goodlander agrees that the city should go back to the LCDC after the December 27th design meeting.

Motion by Kennedy seconded by Goodlander to adopt Resolution 12-054 and direct staff to bring back different funding options that lower the property owner's percentage.

DISCUSSION: Councilman Kennedy stated that he feels the LID is appropriate and fair; however, he believes LCDC should contribute.

Motion by Edinger to amend the motion to start the funding scenarios at \$275.00/front foot. Motion failed for lack of second.

Councilman Kennedy stated that the project engineers have heard the City Council's concerns and they should have the flexibility to bring back funding options, potentially including one for \$275.00/front foot.

ROLL CALL: Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye; Goodlander Aye; Gookin Aye. Motion carried.

PERSON FIELD ACQUISITION: Mr. Gridley stated that the School District has extended the timeline for negotiations for the acquisition of Person Field to January 7, 2013. He will present additional information at the January 2, 2013 City Council meeting. Councilman Gookin thanked Mr. Gridley, Mr. Anthony, and Mr. Tymesen for the time they are putting into the acquisition of this property.

PUBLIC HEARING: HUD 2013-2018 CONSOLIDATED PLAN

Nancy Mabile, Panhandle Area Council Grant Administrator, presented the City's 2013-2018 CDBG Consolidated Plan. Ms. Mabile informed the City Council that this public hearing is a requirement of HUD to allow for public comments prior to the publication of the draft plan. A second public hearing will be held on January 15, 2013 to adopt the Consolidated Plan and Action Plan. Ms. Mabile informed the City Council that the plan included public input from two public forums, one public survey, as well as input from a City Council Workshop. Based on the public input, the plan includes the existing five goals from the previous Consolidated Plan

and the proposal of one additional goal providing for public service projects. More information is available on the City website at www.cdavid.org.

PUBLIC COMMENTS: Mayor Bloem called for public comments with none being received. Mayor Bloem closed the public hearing, as no further action was requested.

PUBLIC HEARING: AUTHORIZATION OF FILING A PETITION OF JUDICIAL CONFIRMATION FOR WASTEWATER TREATMENT PLAN IMPROVEMENTS

Sid Fredrickson, Wastewater Superintendent, stated that this is an opportunity for the City Council to hear public comments. Ms. Quade provided an update of the process of judicial confirmation that the expenses are ordinary and necessary. She asked the council to listen to the comments, then at the meeting in January move forward with approval.

PUBLIC COMMENTS: Mayor Bloem called for public comments with none being received. Mayor Bloem closed the public hearing, as no further action was requested.

EXECUTIVE SESSION: Motion by Gookin seconded by Edinger to enter into Executive Session as provided by I.C. 67-2345 § I: To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim likely to be filed.

ROLL CALL: Adams, Aye; McEvers, Aye; Gookin, Aye; Goodlander, Aye; Kennedy, Aye; Edinger, Aye. Motion carried.

The Council entered into Executive Session at 9:04 p.m. Members present were the Mayor, City Council, City Administrator, City Attorney, Finance Director, and Deputy City Administrator.

Matters discussed were the McDonald and Filios Claims. No action was taken and the City Council returned to its regular session at 9:15 p.m.

Motion by Edinger, seconded by Kennedy to approve the City Attorney's recommendation to pursue a settlement negotiation in the McDonald claim. Motion Carried.

Motion by McEvers, seconded by Goodlander to approve the City Attorney's recommendation to deny the Filios claim. Motion Carried.

ADJOURNMENT: Motion by Edinger, seconded by Kennedy to recess to December 27th at 7:30 a.m. at the Parkside Event Center, Floor 3, 601 E. Front Avenue for an update on the McEuen Park Project. Motion carried.

The meeting recessed at 9:23 p.m.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod,
City Clerk Apprentice

A CONTINUED MEETING OF THE
COEUR D'ALENE CITY COUNCIL
HELD ON DECEMBER 27, 2012 AT 7:30 A.M.
AT THE PARKSIDE TOWERS CONFERENCE ROOM

The Mayor and Council met in a continued session at the Parkside Towers Conference Room on December 27, 2012 at 7:30 a.m. there being present upon roll call a quorum of the Council.

Sandi Bloem, Mayor

Deanna Goodlander)	Members of Council Present
Woody McEvers)	
Mike Kennedy)	
Dan Gookin)	
Steve Adams)	
Ron Edinger)	Member of Council Absent

Dick Stauffer)	Members of Team McEuen Present
Dell Hatch)	
Phil Boyd)	
Monte Miller)	
Mike Walker)	

Tina Johnson)	Members of the McEuen Steering Committee
Dave Patzer)	
John Barlow)	
John Bruning)	
Sandy Emerson)	
Brad Jordon)	

Wendy Gabriel)	Members of City Staff Present
Doug Eastwood)	
Renata McLeod)	
Jon Ingalls)	
Troy Tymesen)	
Jim Markley)	
Shane Roberts)	
Terry Pickel)	
Jim Remitz)	
Kenny Gabriel)	
Wayne Longo)	
Steve Childers)	
Steve Anthony)	
Mike Gridley)	
Bette Ammon)	
Dave Yadon)	

WORKSHOP - MCEUEN 90% DESIGN COMPLETION: Mayor Bloem welcomed the community to the workshop and stated that the purpose of the meeting was to provide an update regarding the 90% completion of the McEuen project plan. Doug Eastwood, Parks Director, stated that the original project was a vision-driven project, which then became a budget driven project, and they are now trying to make both methods mesh. He provided an overview of the plan from two years ago as amended at the 30% and 60% design completion updates. Mr. Eastwood presented items that he believes need to be included in the design in order for the park to be an experience for the end user; for example, the grand plaza and sport courts. He stated that it was the intent of all the studies previously conducted (Hyatt Palma, Committee of Nine, etc.) to create a place-making park. Items that will create place will be the splash pads, tennis courts; and specific children areas that are age appropriate. Mr. Eastwood stated that the presentation will include items that will create a place-making park and are needed to draw people of all ages to revisit the park time and again.

Councilman Kennedy asked for clarification regarding what other city infrastructure was included in the project that caused an impact to the budget. Mr. Eastwood stated that the inclusion of the side street improvements, utility relocation, boat trailer parking, Front Street pavilion, water recycling systems, and LED lighting were included in the project costs.

Mr. Stauffer presented a visual tour of the park and provided facts and figures of the project at the 90% completion status. The design team continued to base the design on community values and the steering committee's mission statement. Mr. Boyd stated that approximately 50,000 yards of material will be removed from Front Avenue for the parking structure next year, as well as installation of the water system for fire suppression and the water recycled water system. Mr. Hatch presented the Front Avenue promenade design and the newly improved parking kiosk system. Councilman Goodlander asked for clarification regarding the number of kiosks. Mr. Stauffer stated that based on the size and in comparison to Spokane, they are recommending five kiosks. Councilman Goodlander expressed concern about the view corridor that would be impeded by the Harbor House. Mr. Eastwood recommended that the design team look at options for moving the building to the east and provide that at the next meeting. Mr. Emerson expressed the need to look to boater use for the restrooms at this location.

The following components of the plan were presented in detail: Parking Facility, Front Avenue Promenade, Centennial Trail, Grand Plaza/Waterfront, Main Pavilion and Restrooms, Benches and Park Furniture, Playground/Splash Pad, Sports Courts, Dog Park, and LED Lighting.

- Parking Facility: Underground structure will hold approximately 200 covered stalls. Ticket kiosks will be located within the parking lot rather than the cross arms. A total of 697 stalls are proposed, approximately 100 more than currently exists.
- Front Avenue Promenade: Two stair towers are included. The 4th Street intersection includes colored concrete and bulb outs and landscape will be used to direct pedestrians to cross points. The Promenade allows for large amounts of people at festivals and events, such as farmers markets. There are opportunities for art and tree plantings. Front Avenue parking will be diagonal with two-way traffic.
- Centennial Trail: 10' concrete on south side (park side), with a shrub separation to another 12' area for wheeled vehicles. The retaining wall will allow for art integration.

- Grand Plaza and Waterfront: The Grand Plaza has been expanded, with a grand staircase access point. The Veterans Memorial will be included within this area. The Freedom tree will be removed and reestablished across from the new Veterans Memorial. The Harbor House will be slightly elevated, due to its location within a flood plain. The Harbor House includes restrooms, water control area, and potential lease space. There will be access for emergency vehicles.
- Picnic Pavilion and Restrooms: This will be an area that can be used to host events and a potential revenue source, and will hold approximately 600 people. This area includes large restrooms and family restrooms (family restrooms will use radiant heat to allow year round use). Additionally, there is a park service center for small equipment, electrical control room, storage, etc. The design includes infrastructure for a three sided fireplace, which is an alternate bid item.
- Benches and Park Furniture: Moving benches have been integrated into the design, and a prototype is being constructed. The Muddy and Millie trail system will be included in the final design.
- Playground Splash Pad Area: The splash pad is a major focus area and is located near the pavilion. The play areas are divided into age appropriate areas separating the 2-5 year old group from the 5-12 year old group. Playground equipment will be accessible, musical toys are integrated, and it will be colorful.
- Sports Courts: A common net will be used for the tennis and pickle ball court. Basketball courts have been included. The Osprey nest poles will continue to be included in the park near the courts.
- Dog Park: Funding has been received through private donations, so this element has been included in the project.
- LED Lighting: The initial inclusion of LED is expensive; however, over the course of its lifetime, there is a savings due to lowered energy usage and the avoidance of light fixture replacements. LED lights include the capability to dim the lighting, and can be timed for security lighting. The lighting can be controlled by zones, i.e., brighter at Front Avenue, and the Grand Plaza, trails, etc.

Mr. Boyd presented the updated budget summary. Increased costs included fine grading, Front Avenue parking/improvements (LID), parking, grand plaza, electrical and lighting, main pavilion, sports courts, furniture and fixtures, harbor house, and the LID creation. As the design has progressed the contingency has been lowered to 5%. The "Add Alternates" list has been reduced as some items moved into the base bid.

Mrs. Gabriel presented the funding summary and reiterated that the funding sources proposed include Overlay Funds, Parks Capital Improvement Funds, Parking Fund, the proposed LID, and LCDC. She stated that additional funding sources to be considered would include the Parks Capital Improvement Fund for FY 2012-2013, Overlay Fund for FY 2013-2014, Fund Balance FY 2012-2013 (based on general work that needed to be done with or without the project). Councilman Kennedy asked for clarification as to what are the co-mingled parts of the project. Mrs. Gabriel stated that she would present items related to the funding sources with a breakdown of items for City Council consideration at next week's City Council meeting. Mrs. Gabriel clarified that additional funding requests to LCDC could range from \$3,451,602 to \$4,271,912 depending on the alternatives Council requests to be included in the design. Councilman

Kennedy asked if private funding could still be included. Mr. Eastwood stated that it could; particularly with naming opportunities. Although, he clarified that the money is needed now, and that private funding often is received over a 5-10 year period. Mrs. Gabriel believes that bids might be competitive and could come in under the engineer estimates.

Councilman Goodlander asked why the Front Avenue costs have increased by \$700,000. Mr. Boyd stated that the addition to the scope of work on the LID was \$280,000, and if the LID was lowered that line item would lower as well. Councilman Goodlander asked for clarification as to why the 4th street improvements go all the way to Sherman Avenue. Mr. Boyd confirmed that sidewalk widths were increased to create more pedestrian areas and on street parking was removed.

Mr. Berry questioned the property owner's approval of the wider sidewalks and removal of parking. The Mayor stated that there will be additional discussion with the property owners abutting that area regarding this issue. Mr. Jordon asked about the budget shortfalls and that even with the additional funding the shortfall appeared the same. Mr. Boyd stated that the funding gap is still the same and that would be the amount the City could ask LCDC to fund. Mr. Jordon felt that the design team should continue to look for areas to cut that would not impact the park use, while still acknowledging that we don't know the bid amount. Mr. Boyd stated that one element, boat trailer parking, increased costs by \$400,000 to \$500,000. Councilman Kennedy stated that this was a compromise and that added money to the project; however, it was a needed compromise, now we are far enough along to determine the price attached to it. Mr. Jordon stated that in his experience on the Lakeside project it was difficult to get a consensus to remove parking on one side of the street. He expressed concern with removal of parking. Councilman Gookin suggested that the design team consider creating a meaningful pattern within the intersection. Mr. Hatch agreed that it could be an opportunity; however he cautioned about the nature of vehicles versus pedestrians crossing in a space not meant for lingering. Councilman Gookin questioned why the paddle boats and historical features of the splash pad were removed. Mr. Hatch stated that he had spoken to several vendors and found that the customization was very expensive. For example the construction of the boat alone, was in excess of \$60,000, and the budget couldn't afford such a feature. Councilman Gookin asked if there was a resolution regarding the curb cut in front of the Montandan property. Mrs. Gabriel stated that there are two curb cuts that will be presented to the City Council for resolution at its next meeting. Councilman Gookin asked for clarification regarding the parking stall widths. Mr. Stauffer stated that the parking structure includes 10' wide stalls, one foot wider than code, and the rest are code compliant with a few compact stalls. Mr. Stauffer clarified that the Fire Department can get within 60' of any location and that the roof clearance of the parking structure is 8'4". Mr. Stauffer clarified that the second elevator would be required, and is located at 4th and 6th Streets. The design includes accessible parking spaces throughout, some of which will be near the elevators, as well as at each intersection on Front Avenue, which will exceed the required code standards.

Councilman Goodlander stated that she believes there could be cost savings by simplifying the intersection design. Mr. Hatch stated that it could provide a savings; however, he is not sure how much. Councilman Goodlander requested the design team review that item and bring back some cost savings numbers. Mr. Eastwood felt that the playground components and elements do a

good job of considering the different ages of children and their development skills, and will keep them engaged year after year. These items are looked at to create social awareness and playtime.

Mr. Eastwood confirmed that service organizations and others could make private contributions to localize these items. Mr. Emerson clarified that the originally proposed fire tower/bridge was removed from the design. Mr. Eastwood stated that the original design did not take into consideration that the stairway would provide children with direct access to the parking lot, and in review the design the team believed that it was a security risk as there would be no way to see children leaving the area into the path of vehicular travel.

Councilman McEvers stated that the original budget was approximately \$17,000,000 or less than \$20,000,000, and that this park was a dream worth achieving to the best of our ability. The proposed cost is less than 25% from everything that was ever proposed and he felt the City Council should go for full funding to make it right. Mr. Emerson stated that there were other elements, such as the Marina, that could be funded in the future through grants.

Mayor Bloem stated that the City Council meeting being held Wednesday, January 2, 2013 and will include several decision points based on information provided today.

ADJOURNMENT: Motion by Gookin, seconded by Adams that, there being no further business, this meeting is adjourned. Motion carried.

The meeting at 9:19 a.m.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod
City Clerk Apprentice

ANNOUNCEMENTS

Memo to Council

DATE: December 24, 2012

RE: Appointments to Boards/Commissions/Committees

The following appointment is presented for your consideration for the January 2nd Council Meeting:

DANIEL SHECKLER

Natural Open Space Committee

A copy of the data sheet is in front of your mailboxes.

Sincerely,

Amy Ferguson
Executive Assistant

cc: Renata McLeod, Acting Municipal Services Director
Chenoa Dahlberg, Parks Department

OTHER BUSINESS

**CITY COUNCIL
STAFF REPORT**

DATE: December 26, 2012
FROM: Jon Ingalls, Deputy City Administrator

SUBJECT: DEPUTY FIRE CHIEFS - CONTRACT AMENDMENT

DECISION POINT:

The City Council is requested to consider the approval of a contract amendment to the labor agreement with the Deputy Fire Chiefs.

HISTORY:

In a December 10, 2012 “heads up,” I mentioned that the Finance Director, Human Resources Director, and I would be meeting with Fire Deputy Chiefs (and Police Lieutenants) to review and update their labor agreements (memorandums of agreements). Typically these agreements have generally followed the same provisions as their related associations (IAFF Local 710 and the Police Association) with some minor additional and/or deviations (e.g., sick leave pay out on retirement). Staff met with the Deputy Chiefs with the goal of ascertaining their acceptance of the same/similar offsets as Local 710 accepted in exchange for their foregoing a 2012-2013 COLA.

FINANCIAL ANALYSIS:

This amendment results in the three Deputy Chiefs foregoing their cost of living allowance for 2012-2013.

PERFORMANCE ANALYSIS:

The Deputy Chiefs were amenable the accepting essentially the same offsets as Local 710 accepted in exchange for their foregoing a 2012-2013 COLA.

Those offsets are:

- Waiver of COLA for 2012-2013
- 3 year contract extension
- Added the same verbiage as Local 710 for an annual financial review
- Add same Social Security verbiage as added to Local 710’s amendment
- No layoffs due to funding shortfall

DECISION POINT/RECOMMENDATION:

That the City Council adopt Resolution 12-056.

Attachment: (1) RESOLUTION 12-056 Contract Amendment No. 2 with the Coeur d’Alene Fire Deputy Chiefs

RESOLUTION NO. 13-001

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AMENDMENT NO 2 TO THE CONTRACT WITH THE COEUR D'ALENE FIRE DEPARTMENT DEPUTY FIRE CHIEFS.

WHEREAS, representatives of the City of Coeur d'Alene, and the Deputy Fire Chiefs have negotiated an amendment to the Contract between the City of Coeur d'Alene the Deputy Fire Chiefs; and

WHEREAS, the Mayor and City Council deem it to be in the best interests of the City of Coeur d'Alene to approve such amendment to the Contract; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the City enter into the Contract Amendment between the City of Coeur d'Alene and the Deputy Fire Chiefs, a copy of which is marked Exhibit "1" attached hereto and by reference made a part hereof.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such Contract on behalf of the City.

DATED this 2nd day of January, 2013.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

- Council Member Adams Voted _____
- Council Member Kennedy Voted _____
- Council Member Goodlander Voted _____
- Council Member Gookin Voted _____
- Council Member Edinger Voted _____
- Council Member McEvers Voted _____

_____ was absent. Motion _____.

CONTRACT AMENDMENT No. 2

This CONTRACT AMENDMENT is made and entered into this 2 day of January, 2013 between the CITY OF COEUR D ALENE, hereafter referred to as "City" and the COEUR D'ALENE FIRE DEPARTMENT DEPUTY CHIEFS, hereafter referred to as "DEPUTY CHIEFS", collectively referred to as the "Parties".

Whereas, the state of the economy has presented a challenge in balancing the City budget for fiscal year (FY) 2012-2013;

Whereas, the City has again reduced expenses for FY 2012-2013 by, among other reductions, reducing travel and training line items, reducing overall operation and supplies costs, maintaining a hiring freeze on certain vacant positions, reducing capital expenditures and offering separation incentives;

Whereas, the City has requested that all employees of the City who are entitled to a cost of living increase on October 1, 2012 forego the increase and accept a zero per cent (0%) cost of living increase;

Whereas, the City has agreed that it will not layoff employees during FY 2012-2013 for budget reasons if all employees agree to forego their FY 2012-2013 cost of living increase and accept a zero per cent (0%) cost of living increase for FY 2012-2013;

Whereas, if all employees do not agree to accept the zero per cent (0%) cost of living increase, the City will have to explore layoffs in order to balance the FY 2012-2013 budget;

Whereas, the Department Heads and the City Council have agreed to accept the zero per cent (0%) cost of living increase;

Now therefore, the Parties agree to amend the contract between the City and the Deputy Chiefs commencing October 2, 2009 (Resolution 10-008), as amended on November 16, 2010 (Resolution No. 10-045) as follows:

CONTRACT EXTENSION

The Parties agree to a three (3) year contract extension through FY 2018-2019.

COST OF LIVING INCREASES

Cost of Living Adjustment (COLA) for the Deputy Chiefs for FY 2012-2013 only will be zero per cent (0%).

SOCIAL SECURITY

If the Deputy Chiefs choose to opt out of the Social Security tax, the CITY agrees to pay the maximum amount of the CITY's Social Security tax obligation per each Deputy Chief into an allowable retirement fund of the Deputy Chiefs choice. If the Deputy Chiefs select a retirement plan that requires an employee contribution in accordance with state or federal law, the employees shall be required to contribute only the minimum amount necessary to comply with said law. The CITY's maximum obligation shall be the CITY's tax percentage paid to the Social Security Administration at the time the Deputy Chiefs choose to opt out of the Social Security system.

If the Social Security tax is abolished, the CITY shall match the members' percentage of wages, up to the maximum of the CITY's previous portion of the Social Security tax into the above allowable plans.

If the CITY is no longer required to pay Medicare tax on behalf of the Deputy Chiefs at any time, the CITY will pay the maximum Medicare tax obligation per each of the Deputy Chiefs into an allowable retirement fund.

If the Deputy Chiefs opt out of the Social Security tax, the Social Security Administration will refund the employee for an amount determined by the Social Security Administration. The City of Coeur d'Alene will also receive an identical refund. The City shall award each employee his/her portion of the City's (employer's) refund within **180** days. However, if the City is allowed flexibility in disbursing the funds the City will work with Deputy Chiefs to disburse the funds in a manner that minimizes negative tax consequences.

ANNUAL REVIEW

The City and Deputy Chiefs agree to an annual financial review discussion to be initiated by City Administration in July of each year of the contract whereby the parties will review the City's financial situation with a particular emphasis on what wage adjustments and medical cost increases can be funded based on the anticipated revenues, with and without tax levy increases. Any revisions to the contract would be by mutual agreement, and upon ratification by the Deputy Chiefs and the City Council.

NO FURTHER MODIFICATION:

The parties agree that the current contract between the parties, as herein amended, remains in full force and effect and that this amendment to the contract between the parties does not amend or alter any other right or obligation of either party under the contract.

Dated this ____ day of January, 2013

CITY OF COEUR D'ALENE:

Sandi Bloem, Mayor

ATTEST:

Renata McLeod, City Clerk

**COEUR D'ALENE FIRE DEPARTMENT
DEPUTY CHIEFS:**

Thomas Greif

Glenn Lauper

James Washko

**PARKS & RECREATION COMMISSION
STAFF REPORT**

DECEMBER 17, 2012

FROM: DOUG EASTWOOD, PARKS DIRECTOR

RE: U.S. 95 PEDESTRIAN-BICYCLE TRAIL

Decision Point: Recommend to the City Council to endorse the partnership of Kootenai County, City of Hayden & Coeur d'Alene to maintain the U.S. 95 Pedestrian – Bicycle trail. This will include a \$2,500 increase in our annual allocation to the Joint Powers Board for capital improvements to the trail.

History: The Idaho Transportation Department constructed this trail in the early 1980's. ITD has requested in previous years that the City Parks Department assume the maintenance responsibility of the trail. I have chosen not to pursue that responsibility unless the trail was to be re-built. ITD recently contacted Kootenai County, Hayden, CDA and Bonner County to inform us that they have the funds allocated for 2013 to develop a new trail along U.S. 95 that will extend from Garwood north across the county line into Bonner County and ending at Granite Hill Road. Eventually the trail will reach Sandpoint creating a North-South trail system more than 40 miles in length connecting CDA to Sandpoint and every point of interest in between.

Financial Analysis: We would manage this trail in the same fashion that we manage the Centennial Trail. Each entity would assume the routine maintenance within their jurisdictions and each entity would contribute \$2,500 annually to the Joint Powers Board for future capital improvements such as seal coating and/or a trail head. We established the Joint Powers Board in the early 1990's to assist with capital improvements along the 23 miles of the North Idaho Centennial Trail. All entities involved with the Centennial trail meet quarterly and operate from the same maintenance standards in order to have continuity along the 23 mile corridor. I will be recommending that the County and Joint Powers Board request a one-time stipend from ITD that would assist with future capital improvements/repairs.

Performance Analysis: The U.S. 95 Trail will extend approximately 18 miles from Appleway in CDA to the County line. ITD has offered to construct the trail from Garwood to Granite Hill Road, approximately 10 miles, if a local agency agrees to maintain the trail. Kootenai County is the likely agency to enter into an MOU with ITD; however the county would like to know that CDA and Hayden will participate with trail maintenance in our jurisdictions as we do on the Centennial Trail

Decision Point: Recommend to the City Council to endorse the U.S. 95 Trail maintenance agreement contingent upon the replacement of the existing trail from Appleway in CDA to Highway 53 just north of Hayden. Also recommend that the city allocate \$2,500.00 to the Joint Powers board for capital improvements of the U.S, 95 Trail beginning in fiscal year 2013-2014.

CITY COUNCIL STAFF REPORT

DATE: January 2, 2013

FROM: Mike Gridley, City Attorney

SUBJECT: Acceptance of conveyance of Prairie Trail property from LCDC

DECISION POINT: Should the City of Coeur d'Alene accept ownership of the Prairie Trail property from LCDC?

HISTORY: On December 21, 2007 the North Idaho Centennial Trail Foundation, Inc. (NICTF) purchased 5.25 miles of railroad right of way from Union Pacific Railroad for \$2.5 million dollars. The appraised value of the land was \$6 million dollars but NICTF was able to negotiate a "bargain sale" with UP because it is a non-profit. The purchase was funded by a loan from LCDC to NICTF. The terms of the loan anticipated NICTF paying off the loan by exchanging the property for BLM property and then conveying the BLM property to LCDC. BLM has notified NICTF, LCDC and the City that it no longer wishes to do an exchange for the Prairie Trail property so NICTF has conveyed the Prairie Trail property to LCDC to pay off the original loan. LCDC would like to give the property to the City for continued trail use and other public uses.

FINANCIAL ANALYSIS: There is no cost to the City. The City will receive 5.25 miles (approximately 60 acres) of former Union Pacific right of way. The 4.25 mile Prairie Trail is on the property and extends from Riverstone to Huetter Road. In addition to the land, the City will receive the benefit of approximately \$750,000 in trail improvements (paving, landscaping, signals, etc.) that have been paid for by NICTF. The City has previously partnered with NICTF to maintain the trail and the City Parks Department endorses accepting ownership of the trail. It is anticipated that NICTF will continue to provide financial support to the trail as it is available.

PERFORMANCE ANALYSIS: Acceptance of the property by the City will ensure that the property will be in public ownership forever. It is likely that additional recreational uses for the property will be planned in the future.

QUALITY OF LIFE ANALYSIS: Coeur d'Alene is known for its trails and the Prairie Trail is a critical link between north and south Coeur d'Alene. It is heavily used and the use will only grow in the future. By the City owning the property City ordinances regarding trail use can be enforced on the property.

DECISION POINT/RECOMMENDATION: The City of Coeur d'Alene should accept ownership of the Prairie Trail property.

RESOLUTION NO. 13-002

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING ACCEPTING THE CONVEYANCE OF THE FORMER UNION PACIFIC RAILROAD RIGHT OF WAY KNOWN AS THE PRAIRIE TRAIL FROM THE LAKE CITY DEVELOPMENT CORPORATION.

WHEREAS, the Lake City Development Corporation (LCDC) has offered to convey to the City of Coeur d'Alene the former Union Pacific Railroad right of way known as the Prairie Trail for the use and benefit of the citizens of the City of Coeur d'Alene; and

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to accept such conveyance; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the City hereby accepts the conveyance of the former Union Pacific Railroad right of way known as the Prairie Trail from LCDC.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such documents accepting the conveyance from LCDC on behalf of the City.

DATED this 2nd day of January, 2013.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER GOODLANDER Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER ADAMS Voted _____

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER KENNEDY Voted _____

_____ was absent. Motion _____.

**STAFF REPORT
CITY COUNCIL**

Date: January 2, 2013

From: Doug Eastwood, Parks Director

RE: LEASE OF BLM PROPERTY

Decision Point: Authorize staff to enter into a lease agreement with the Bureau of Land Management for the 28.69 acres of land (formerly the BNSF railroad right of way) located west of Northwest Boulevard between Memorial Field and the Riverstone Subdivision.

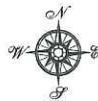
History: The BLM was going to enter into a land trade that involved this property and the Prairie Trail. The BLM opted out of the land trade and determined that they do not want to own and/or manage land within municipal city limits. However, BLM supports getting the land to the City for public use. The BLM land corridor touches the Riverstone Subdivision on the south, it touches the Spokane River, Northwest Boulevard, the Education Corridor and the City owned Memorial Field property as well as connecting to the Four Corners Area. A map of the area is attached showing the land in yellow (Prairie Trail indicated in red).

Financial Analysis; There is a \$100.00 application fee for the lease. The cost of the lease will be \$2 per acre per year. The BLM would allow us to use, develop, and manage the land as long as it is used for recreational or public purposes. Included uses are parks, municipal facilities and educational facilities. Cost for development and M & O would be identified during the master planning process that would include community stakeholders and adjoining landowners.

Performance Analysis; The City of Coeur d'Alene population is estimated to be 90,000 people at build out. The City will need to acquire at least 100 more acres of land prior to that build out time in order to meet the needs of the population and meet the adopted standards of 4 acres of developed parkland per 1,000 population. This land has numerous opportunities for recreational and public use, including some opportunities that have not yet been explored, and it will help us meet future needs. Some of the land may be appropriate for use by NIC or other educational institutions. The City would need to submit to the BLM the types of uses in which we would propose to use the land so that BLM can determine that the uses meet their criteria. We should 'master plan' this site in combination with the Four Corners area since the land use could create newer and better public outdoor recreation opportunities and other public uses. There is no urgency to develop the land, however we should step forward and lease the land now and master plan for the future.

Decision Point: Authorize staff to submit a lease agreement application with the BLM for the BLM property formerly controlled by the BNSF railroad.

**BURLINGTON NORTHERN RAILROAD CORRIDOR
TRACT 44 - 28.69 ACRES**



*U.S. Bureau of Land Management
Coeur d'Alene Field Office
Map Created on January 05, 2007*



RESOLUTION NO. 13-003

A RESOLUTION OF THE CITY OF COEUR D'ALENE, STATE OF IDAHO, MAKING FINDINGS AND DECLARATIONS WITH RESPECT TO FINANCING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS TO THE WASTEWATER TREATMENT FACILITY SYSTEM SERVING THE RESIDENTS OF THE CITY; APPROVING AND AUTHORIZING, SUBJECT TO JUDICIAL CONFIRMATION, THE FINANCING OF THE IMPROVEMENTS; AUTHORIZING THE FILING OF A PETITION FOR JUDICIAL CONFIRMATION IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO; AND PROVIDING FOR RELATED MATTERS

WHEREAS, the City of Coeur d'Alene, State of Idaho (the "City") is a municipal corporation organized and operating under the laws of the State of Idaho;

WHEREAS, the wastewater treatment facility system serving the City's residents (the "System") is owned and operated by the City;

WHEREAS, pursuant to the System's facility plan, as amended and updated, certain improvements to the System are required to satisfy more stringent state and federal permit requirements for discharge of ammonia, phosphorus, and biochemical oxygen demand (collectively, the "Project Improvements");

WHEREAS, the Mayor and members of the City Council of the City (the "Council") desire to deem the Project Improvements for the public good and welfare, and for the improvement of the health, safety, comfort and convenience of the users of the System, and have determined the City will pay the costs of the Project Improvements, as specifically itemized on the attached Exhibit A;

WHEREAS, the City does not have sufficient funds available in its current fiscal year's budget to finance the costs of the Project Improvements and has determined that it is in the best interests of the City to finance the Project Improvements by issuing and selling revenue bonds under Idaho Code Section 50-237 and Sections 50-1027 through 50-1042, inclusive (the "Revenue Bond Act") in an amount not to exceed \$33,590,000, as further detailed on Exhibit A (the "Project Costs"), plus required reserves and issuance costs, to be repaid from revenues of the System;

WHEREAS, the City has determined that it must first obtain judicial confirmation pursuant to the Idaho Judicial Confirmation Law, Title 7, chapter 13, Idaho Code (the "Idaho Judicial Confirmation Law") that its power and authority to issue revenue bonds to finance the Project Costs is not prohibited by the Idaho Constitution;

WHEREAS, pursuant to Idaho Code Section 7-1304, the City properly noticed and held a public hearing on December 18, 2012 (the "Public Hearing") to obtain testimony and/or evidence as to whether it should adopt a resolution authorizing the filing of a petition for judicial confirmation pursuant to the Idaho Judicial Confirmation Law (the "Petition");

WHEREAS, the Council conducted the Public Hearing at which time no testimony or evidence regarding the Petition was submitted;

WHEREAS, the Council desires to declare the immediate need to acquire and construct the Project Improvements upon which it is seeking a judicial confirmation and desires to approve the financing of the Project Costs, plus required reserves and issuance costs, upon the City's receipt of a favorable judgment on the Petition; and desires to authorize the construction and acquisition of the Project Improvements;

WHEREAS, the Council desires to approve the form of the Petition presented at this meeting and to authorize the filing of the Petition in the District Court of the First Judicial District of the State of Idaho (the "District Court") to confirm the power of the City to issue revenue bonds to finance the Project Improvements as more particularly described in the Petition;

WHEREAS, the City has prepared the form of ordinance as required by the Revenue Bond Act, to be adopted simultaneously herewith, which generally describes and provides the terms of financing of the Project Costs, plus required reserves and issuance costs (the "Ordinance").

NOW, THEREFORE, IT IS RESOLVED BY THE MAYOR AND COUNCIL AS FOLLOWS:

Section 1. The Mayor and Council hereby deem the Project Improvements for the public good and welfare, and for the improvement of the health, safety, comfort and convenience of the users of the System.

Section 2. The Council hereby declares the immediate need to acquire and/or construct the Project Improvements.

Section 3. The Petition, in the form presented to the Council at this meeting, is hereby approved, and the Mayor is authorized to execute the verification of the same, together with such changes as the Mayor shall approve in consultation with Bond Counsel, and Bond Counsel for the City is hereby authorized to file said Petition on behalf of the City in the District Court, and to take all actions necessary with respect thereto in order to obtain a judgment of said District Court in accordance with the prayer of the Petition.

Section 4. Subject to the entry of a final order of the District Court confirming the authority of the City as described in the Petition, the City resolves to adopt simultaneously with the adoption of this Resolution, the Ordinance substantially in the form presented to the Council, and to adopt such other ordinances as provided therein as needed to issue revenue bonds in an amount not to exceed \$33,590,000, plus required reserves and costs of issuance thereof, to finance the City's Project Costs.

Section 5. If any section, paragraph, clause or provision of the foregoing resolutions shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the resolutions.

PASSED AND APPROVED this 2nd day of January, 2013.

CITY OF COEUR D'ALENE, STATE OF
IDAHO

Mayor

ATTEST:

City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER ADAMS	Voted _____
COUNCIL MEMBER KENNEDY	Voted _____
COUNCIL MEMBER GOOKIN	Voted _____
COUNCIL MEMBER MCEVERS	Voted _____
COUNCIL MEMBER EDINGER	Voted _____
COUNCIL MEMBER GOODLANDER	Voted _____

_____ was absent. Motion _____.

EXHIBIT A

PROJECT IMPROVEMENTS AND PROJECT COSTS

<u>Description of Project Improvements</u>	<u>Estimated Project Costs</u>
Primary Process Improvements - Primary Clarifier No. 3	\$ 1,662,000
Primary Process Improvements – Primary Clarifier Cover	1,686,000
Chemical Storage and Feed	306,000
Secondary Process Improvements - Secondary Clarifier	4,374,000
Tertiary Process Addition – Tertiary Membrane Filtration (TMF):	<u>25,562,000</u>
- site work and yard piping	
- TMF transfer pumping station	
- TMF Facilities and equipment	
- electrical	
- instrumentation and control	
Total:	\$33,590,000

S. C. Danielle Quade, ISB No. 6363
Nicholas G. Miller, ISB No. 3041
Nicole Pantera, ISB No. 7744

HAWLEY TROXELL ENNIS & HAWLEY LLP
877 Main Street, Suite 1000
Boise, ID 83701-1617
Telephone: (208) 344-6000
Facsimile: (208) 954-5285

Attorneys for Petitioner
City of Coeur d’Alene, Idaho
Kootenai County, Idaho

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

IN THE MATTER OF:)	
)	Case No. _____
)	
City of Coeur d’Alene, Kootenai County,)	PETITION FOR JUDICIAL
Idaho,)	CONFIRMATION
)	
PETITIONER.)	
)	
_____)	

Petitioner, City of Coeur d’Alene, Kootenai County, Idaho, an Idaho municipal corporation (the “Petitioner”) by and through its counsel of record Hawley Troxell Ennis & Hawley LLP petitions this Court, pursuant to Idaho Code § 7-1304, for a judicial examination and determination of the validity and authority of Petitioner to enter into a loan agreement with Idaho Department of Environmental Quality (“DEQ”) and/or to issue its promissory notes, bonds

or other evidences of indebtedness to finance its portion of the costs of improvements to its wastewater treatment facility system (the “System”). The Petitioner estimates that the cost of the needed improvements (the “Improvements”) to the System will be approximately \$33,590,000.

The Petitioner petitions this Court for a determination that the Improvements are an “ordinary and necessary expense” of Petitioner authorized by the general laws of the State, within the meaning of Article VIII, Section 3 of the Idaho Constitution.

In support thereof, Petitioner (also hereinafter referred to as “City”) represents as follows:

I.

JURISDICTION

1. This petition is made by Petitioner pursuant to the Idaho Judicial Confirmation Law, Idaho Code §§ 7-1301-1313, inclusive (the “Law”).

2. This action is in the nature of a proceeding in rem, and jurisdiction of all parties interested will be obtained by publication and posting as provided in Sections 7-1305 and 7-1306, Idaho Code.

II.

PRELIMINARY ALLEGATIONS

A. Background

3. The City is a public body corporate and politic organized, existing, and operating as an incorporated city pursuant to Title 50 of the Idaho Code, as amended, and as such is a “political subdivision” within the definition contained in Idaho Code § 7-1303(6).

4. The City owns and operates the System for the purpose of treating wastewater for residents of the City.

5. The City is authorized to collect rates, fees, tolls and charges for the services, facilities and commodities furnished by the System, pursuant to Idaho Code Sections 50-1030 and 50-1032, and currently collects such rates, fees, tolls and charges.

B. The Improvements

6. The System treats wastewater and discharges treated effluent via underground pipeline to the Spokane River (“Surface Water Discharge”).

7. The System currently operates under a National Pollutant Discharge Elimination System Permit (“NPDES Permit”) issued by the Environmental Protection Agency (the “EPA”) on September 30, 1999 (the “1999 Permit”). The 1999 Permit expired on November 2, 2004, but has been administratively extended to the present, pending issuance of a new NPDES Permit.

8. To continue its operations for Surface Water Discharge, the System submitted a timely application for a new NPDES Permit in 2004 to continue to allow discharge of treated effluent to the Spokane River. After extensive preliminary negotiations with EPA, the State of Washington and DEQ, EPA issued draft permits for public comment in 2007. Public comments prompted the EPA to withdraw the 2007 draft permits in September of 2008. Since that time, additional technical and regulatory efforts have allowed new permits to be drafted. Therefore, the current proposed permit for the Surface Water Discharge is presently in draft form (the “2013 Permit”). The 2013 Permit will replace the 1999 Permit and thereby establish a long-term regime for Surface Water Discharge. The Petitioner expects that the EPA will finalize the 2013 Permit in early 2013, following a public comment process, and that, in any event, the standards set forth in the final permit will be no less stringent than those set forth in the draft.

9. Pursuant to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, (the “CWA”), surface waters that do not meet state-established water quality standards must be treated with technology-based pollution controls. If these pollution controls do not achieve the required water quality, Section 303(d) of the CWA requires the states to prepare a list of the water segments in which non-attainment occurs, and then prepare a study of the Total Maximum Daily Load (“TMDL”) for such water segments, prioritize the list and submit it for approval to the EPA. A TMDL study identifies sources of pollutants of concern, quantifies the assimilative capacity of the water segment for those pollutants, and defines the process by which those pollutants will be controlled to achieve compliance with the water quality standards.

10. Both Washington and Idaho list the Spokane River as a “water quality limited segment” under Section 303(d) of the CWA for lead, cadmium and zinc. In addition, Washington lists the Spokane River for dissolved oxygen, total polychlorinated biphenyls (“PCB”) and 2, 3, 7, 8 tetrachlorodibenzo-p-dioxin (“Dioxin”), and Idaho lists the Spokane River for total phosphorus due to concerns about growth of aquatic plant life, primarily algae, as well as ammonia. Idaho discharges are generally required to comply with the limitations prescribed for Washington State dischargers to the extent that discharge from Idaho point sources may contribute to excursions above water quality standards for these particulates in the State of Washington.

11. NPDES Permit holders discharging into the Spokane River have been subject to lead, cadmium and/or zinc limitations and have been seasonally removing phosphorus since 1991 to reduce downstream algae growth and increase dissolved oxygen in the Lake Spokane reservoir. Only limited monitoring has taken place for PCB and Dioxin, but the Washington

Department of Ecology (“WDOE”), the Spokane Tribe, and environmental groups are moving forward with actions to reduce allowable levels of PCB and Dioxin in permitted discharges.

12. In February of 2010, the WDOE issued The Spokane River and Lake Spokane Dissolved Oxygen Total Maximum Daily Load (“DO TMDL”), and the EPA approved the DO TMDL in May of 2010. The DO TMDL establishes a level of discharge of oxygen-demanding substances, including ammonia-nitrogen, total phosphorous, and five-day carbonaceous biochemical oxygen demand (“CBOD₅”) to among the lowest levels in the United States.

13. The draft NPDES Permits to be issued by the EPA in 2013 are consistent with the limitations prescribed by the DO TMDL. The 2013 Permit for the System provides for effluent limits of 272 lbs/day season average for ammonia (5.43 mg/L at 6 mgd), 3.17 lbs/day seasonal average for phosphorus (0.050 mg/L at future flow of 7.6 mgd) and 265 lbs/day average monthly CBOD₅ (5.3 mg/L at 6.0 million gallons per day design flow) which is equivalent to the wasteload allocation set forth in the DO TMDL. In addition, the EPA has indicated it intends to require Idaho dischargers to regularly sample influent and effluent for PCB and Dioxin and sample river water for PCBs to determine if the discharges have the “reasonable potential to cause or contribute to excursions above water quality standards for PCBs in waters in the State of Idaho, State of Washington, or Spokane Tribe of Indians.”

14. In addition to the requirements set forth in the 2013 Permit, the System is currently struggling to comply with existing limitations on ammonia nitrogen in the 1999 Permit. Based on current monthly average effluent concentrations, additional ammonia removal is required to meet the limitations of the 1999 Permit as well as the 2013 Permit.

15. In February 2009, the City retained HDR Engineering, Inc. (the “Engineer”) to prepare an amendment to its 2000 Wastewater Facility Plan (the “Plan Amendment”) to evaluate improvements likely to be necessary to comply with the limitations expected to be set forth in the new NPDES Permits and to qualify for certain State Revolving Fund Loans offered through DEQ. The Plan Amendment identified recommended improvements to comply with discharge limitations expected to be contained in future NPDES Permits (the “Improvements”). In January 2012, the Engineer completed a 2012 Update to the 2009 Wastewater Facility Plan Amendment (the “Plan Update” and together with the Plan Amendment, the “Plan”) to review the Improvements in light of the 2013 Permit.

16. In order to meet the requirements of the 1999 Permit and the 2013 Permit, the Plan proposed a three-phase expansion to the System. Phase 5A, completed in 2009, involved ammonia reduction improvements to comply with the 1999 Permit requirements for ammonia-nitrogen, which involved modifications to the existing secondary treatment system. Phase 5B, completed in 2010, involved solids handling improvements, including dewatering, anaerobic digestion, and sludge storage improvements. The third phase, yet to be completed, Phase 5C, involves liquid stream improvements, which include the construction of advanced filtration and other facilities needed for reliable compliance with ammonia-nitrogen and phosphorous limits.

17. Pursuant to the Plan, the System has installed and conducted limited pilot testing to determine the most efficient and economical liquid stream improvements necessary to comply with anticipated discharge requirements. The Plan Update incorporated the results of this

preliminary pilot testing and recommended the Improvements to be constructed incrementally for Phase 5C.

18. The 2013 Permit incorporates a mandatory timeline set forth in the DEQ's Section 401 Certification (the "Certification") for the System to fully meet the new requirements (the "Compliance Schedule"). The System is required to meet the Compliance Schedule in order to continue the Surface Water Discharge. The System has a duty to comply and failure to meet the 2013 Permit conditions would result in penalties of up to \$37,500 per day for each violation, plus inflation.

19. The Compliance Schedule requires the System to meet certain interim requirements as soon as one year and all conditions no later than ten years from the effective date of the 2013 Permit. Within one year after the effective date, the System must provide a preliminary engineering report outlining the estimated costs and schedules for completing capacity expansion and implementation of technologies necessary to achieve the final effluent limitations specified in the 2013 Permit. Within three years, the System must provide written notice that it has completed the first phase of the 5C improvements, which are necessary to complete full scale pilot testing and provide a summary report of results to the EPA and DEQ. The design for the second phase of 5C improvements must be completed within five years, and bids must be awarded to begin construction. Construction must be completed within eight years, and by ten years, the System must have completed start-up, optimization and compliance with the final effluent limitations, and must provide a written report to the EPA and DEQ evidencing compliance, including two years of effluent data demonstrating that final effluent limits can be achieved.

20. The System must commence the Improvements no later than Spring of 2013 in order to meet the requirements provided in the Compliance Schedule and avoid potential penalties of \$37,500 per day. Each step of the process is critical and the sequential nature of the overall Project requires one step to be completed before the next step can commence. Accordingly, each step is time-sensitive, and timely completion of the first phase is required to timely complete the second phase, and comply with the final nine-year deadline.

21. Table One sets forth the estimated components of the Improvements, and their estimated cost.

Table One

<u>Improvements</u>	<u>Estimated Cost</u>
Primary Process Improvements – Primary Clarifier No. 3	\$1,662,000
Primary Process Improvements – Primary Clarifier Cover	1,686,000
Chemical Storage and Feed	306,000
Secondary Process Improvements – Secondary Clarifier	4,374,000
Tertiary Process Addition – Tertiary Membrane Filtration (TMF), including:	25,562,000
-Site work and yard piping	
-TMF transfer pumping station	
-TMF facilities and equipment	
-Electrical	
-Instrumentation and Controls	
Total	\$33,590,000

22. The Plan evaluated three possible alternatives to address the deficiencies in the System's current operations. The Engineer explored each alternative and determined that the Improvements outlined herein are the most cost-effective, economical method for the City to make the needed improvements to comply with the stringent discharge requirements.

C. Plan of Finance

23. Petitioner is empowered by Idaho Code Sections 50-237 and 50-1027 through 50-1042, inclusive (the “Act”), to issue revenue bonds in order to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of the System and to pledge revenue from the System for the repayment of such bonds, including an amount sufficient to create and maintain a reserve fund for the repayment of such bonds.

24. Idaho Code Section 50-1030(g) authorizes the Petitioner to pledge revenues from the System. It provides that the Petitioner has the power:

To pledge an amount of revenue from such works . . . including improvement, betterment or extensions thereto, thereafter constructed or acquired, sufficient to pay said bonds and interest as the same shall become due, and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part or portion of such revenues. In determining such cost, there may be included all costs and estimated costs of the issuance of said bonds; all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for six (6) months thereafter on money borrowed or which it is estimated will be borrowed pursuant to sections 50-1027 through 50-1042, Idaho Code, and the costs of any bond reserve funds or working capital deemed necessary in connection with the bond issue.

25. The City proposes to issue revenue obligations, in the form of a loan agreement with DEQ and/or promissory notes, bonds or other evidences of indebtedness issued to bond investors or financial institutions, in order to finance the City’s share of the costs of the Improvements, in the approximate amount of \$33,590,000, plus required reserves and issuance costs.

26. The System is listed on the unfunded priority list for DEQ financing for its Clean Water State Revolving Loan Program, and DEQ has recently provided Petitioner notice that

additional funding is going to be available for projects based on the priority list that are authorized to proceed to incur debt by January 2013. DEQ financing is of utmost importance to the financing of the Improvements because it provides the lowest interest rate and financing costs available and because of the limited availability of this type of financing. In order to secure DEQ financing, the City must urgently pursue this option. A copy of DEQ's Funding Update notice is attached hereto as Exhibit C, along with DEQ's current priority list. Although per DEQ's requirements, the City was required to evidence its authority to enter into the loan agreement with DEQ by January 2013 to be considered for DEQ financing, the DEQ has indicated a willingness to consider funding based on the filing of this Petition with the Court.

D. Source of Payment

27. The City intends to pay the obligations from revenues collected pursuant to the Act. No tax monies will be pledged for repayment of the obligations and the full faith and credit of the City shall not be pledged to repayment.

E. Authority and Powers

28. Petitioner is subject to the debt limitations contained in Article VIII, § 3 of the Idaho Constitution.

29. Petitioner has not held an election to obtain voter approval to finance the Improvements.

30. Article VIII, § 3 of the Idaho Constitution provides that:

No county, city, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two thirds (2/3) of the qualified electors thereof voting at an election to be held for that purpose, nor

unless, before or at the time of incurring such indebtedness, provisions shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within thirty (30) years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void: Provided, that this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the state...

31. Petitioner has exercised its authority under the Act to approve a resolution (the “Resolution”) to proceed with the filing of judicial confirmation proceedings and declaring the immediate need to construct the Improvements, as well as an ordinance (the “Ordinance”), as required by the Act, which authorizes the Petitioner to issue obligations payable from revenues of the System to finance the Improvements upon final approval of such projects by the City and upon the Court’s issuance of a favorable judgment on this Petition. A copy of the Resolution and the Ordinance are attached hereto and incorporated herein as Exhibit A.

32. Judicial determination of the validity of such proposed obligations pursuant to Idaho Code § 7-1301 *et seq.* will serve the public interest and welfare.

33. Petitioner has complied or will comply with all publication, posting, mailing of notice, and hearing requirements pursuant to Idaho Code §§ 7-1304, 7-1305, and 7-1306. Petitioner mailed notice of the public hearing to all persons requesting such notice informing them of the time and place of the public hearing to consider the Resolution authorizing the filing of this petition at least 14 days before the public hearing via certified mail pursuant to Idaho Code §7-1304. Additionally, Petitioner posted notice of the public hearing at or near the main door of the City’s administrative office at least 14 days prior to the date of the public hearing and published notice in the *Coeur d’Alene Press*, the official newspaper of general circulation in

Kootenai County, on November 30, 2012, which was more than 15 days prior to December 18, 2012, the date of the public hearing. The form of notice published in the *Coeur d'Alene Press* complied with Idaho Code § 7-1306(2). A copy of the notice published in the *Coeur d'Alene Press* is attached as Exhibit B and incorporated herein.

III.

CLAIM FOR JUDICIAL DETERMINATION – ORDINARY AND NECESSARY

34. Petitioner repeats and realleges each of the allegations contained in paragraphs 1 through 33.

35. Petitioner seeks a judicial determination that the expenditures for the planned Improvements constitute ordinary and necessary expenses under Article VIII, § 3 of the Idaho Constitution and that the Improvements are authorized by the general laws of the State.

WHEREFORE, Petitioner prays:

1. For an Order setting the date and time of a hearing herein and directing the giving of notice thereof as provided by law;

2. For a judicial examination and confirmation of the validity of the power and authority of Petitioner (a) to enter into a loan agreement with DEQ and/or to issue its promissory notes, bonds, or other evidences of indebtedness to the bond investors or financial institutions to finance the Improvements based on the finding that such obligations and agreements are not debts or obligations under Article VIII, §3 of the Idaho Constitution, and (b) to incur the obligations for the Improvements based on the finding that such Improvements, as described herein, are “ordinary and necessary expenses” under Article VIII, § 3 of the Idaho Constitution; and

3. For such other and further relief as the Court deems proper.

DATED THIS ___th day of January, 2013.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By _____
S. C. Danielle Quade ISB No. 6363
Attorneys for Petitioner
City of Coeur d'Alene,
Kootenai County, Idaho

EXHIBIT A

**RESOLUTION TO PROCEED WITH JUDICIAL CONFIRMATION AND
ORDINANCE TO AUTHORIZE ISSUANCE OF REVENUE BONDS**

EXHIBIT B
NOTICE PUBLISHED IN THE COEUR D'ALENE PRESS

**EXHIBIT C
DEQ FUNDING MATERIALS**

ORDINANCE NO. ____

COUNCIL BILL 13-1001

AN ORDINANCE OF THE CITY OF COEUR D'ALENE, STATE OF IDAHO, APPROVING AND AUTHORIZING IMPROVEMENTS TO THE WASTEWATER TREATMENT FACILITY SYSTEM SERVING THE RESIDENTS OF THE CITY; SETTING FORTH THE ESTIMATED COST OF THE IMPROVEMENTS; ORDERING THE CONSTRUCTION AND ACQUISITION OF THE PROJECT; AUTHORIZING THE ISSUANCE OF REVENUE BONDS IN AN AMOUNT UP TO \$33,590,000 PLUS REQUIRED RESERVES AND ISSUANCE COSTS TO FINANCE A PORTION OF THE IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF SUCH BONDS; AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, the City of Coeur d'Alene, State of Idaho (the "City") is a municipal corporation organized and operating under the laws of the State of Idaho;

WHEREAS, the wastewater treatment facility system serving the City's residents (the "System") is owned and operated by the City;

WHEREAS, pursuant to the System's facility plan, as amended and updated, certain improvements to the System are required to satisfy more stringent state and federal permit requirements for discharge of ammonia, phosphorus, and biochemical oxygen demand (collectively, the "Project Improvements");

WHEREAS, the Mayor and members of the City Council of the City (the "Council") have deemed the Project Improvements for the public good and welfare, and for the improvement of the health, safety, comfort and convenience of the users of the System, and have determined the City will pay the costs of the Project Improvements, as specifically itemized on the attached Exhibit A;

WHEREAS, the City does not have sufficient funds available in its current fiscal year's budget to finance the costs of the Project Improvements and has determined that it is in the best interests of the City to finance the Project Improvements by issuing revenue bonds in an amount not to exceed \$33,590,000, as detailed on Exhibit A, plus required reserves and issuance costs, to be repaid from revenues of the System;

WHEREAS, the City intends to file a petition in the District Court for the First Judicial District, in and for the County of Kootenai, State of Idaho (the "Court") under Idaho's Judicial Confirmation Law, Chapter 13, Title 7, Idaho Code, seeking determination of the authority of the City to issue bonds under Idaho Code Section 50-237 and Sections 50-1027 through 50-1042, inclusive (the "Revenue Bond Act"), to finance the Project Improvements, to be payable from

the rates and charges levied, assessed and collected for the services, facilities and commodities furnished by the System, pursuant to Idaho Code Section 50-1030(f);

WHEREAS, in accordance with Section 50-1035 of the Revenue Bond Act, the City desires to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Coeur d'Alene, Idaho, as follows:

SECTION 1. The Project Improvements will be constructed pursuant to the City's 2000 Wastewater Facility Plan, as amended by the 2009 Wastewater Facility Plan Amendment and 2012 Update to the 2009 Wastewater Facility Plan Amendment, which reports were prepared by HDR Engineering, Inc., and have been filed with the City, and which provide that the estimated aggregate cost of the Project Improvements is \$33,590,000 (including the expenses properly incident thereto, consisting of, but not limited to, administrative, engineering and other related costs), plus required reserves and issuance costs (the "Project Costs").

SECTION 2. The acquisition, construction, and installation of the Project Improvements, as described on Exhibit A attached hereto, are hereby approved and ordered.

SECTION 3. It is necessary and desirable to finance the Project Costs by the issuance of revenue bonds pursuant to Idaho Code Section 50-237 and the Revenue Bond Act, as authorized by judicial confirmation, and the officials of the City are directed to proceed with the issuance of such bonds from time to time to finance the Project Costs, plus any amounts necessary to establish bond reserve funds and the costs of issuance thereof.

SECTION 4. The bonds will be further authorized pursuant to an ordinance and/or supplemental ordinance passed and approved by the Council and Mayor (i) providing that the bonds will be issued in the form and pursuant to the terms and provisions set forth therein, including interest rates, maturity dates, payment dates, and redemption provisions; (ii) providing that principal and interest thereon will be payable from available revenue of the System, as improved, until principal and interest on the bonds shall have been fully paid; (iii) providing for the sale of the bonds; (iv) establishing necessary funds and accounts; (v) setting forth the covenants relating to the bonds; and (vi) providing for such other matters relating thereto.

SECTION 5. Such bonds shall not be a debt of the City and the City shall not be liable thereon, nor shall the bonds be payable out of any funds other than the revenue of the System. Such bonds shall not be payable from ad valorem property taxes.

SECTION 6. The proper officer or officers of said City are hereby authorized and directed to do all things requisite and necessary to carry out the provisions of this Ordinance.

SECTION 7. That, pursuant to the provisions of Sections 50-901 and 50-901A, Idaho Code, as amended, this Ordinance, or a summary thereof, shall be published within one (1)

month hereafter in an issue of *The Coeur d'Alene Press*, the official newspaper of the City, and shall take effect and be in full force immediately upon its passage, approval and publication.

PASSED by the Council of the City this 2nd day of January, 2013.

CITY OF COEUR D'ALENE, STATE OF IDAHO

By _____
Mayor

ATTEST:

By _____
City Clerk

EXHIBIT A
PROJECT IMPROVEMENTS AND PROJECT COSTS

<u>Description of Project Improvements</u>	<u>Estimated Project Costs</u>
Primary Process Improvements - Primary Clarifier No. 3	\$ 1,662,000
Primary Process Improvements – Primary Clarifier Cover	1,686,000
Chemical Storage and Feed	306,000
Secondary Process Improvements - Secondary Clarifier	4,374,000
Tertiary Process Addition – Tertiary Membrane Filtration (TMF):	<u>25,562,000</u>
- site work and yard piping	
- TMF transfer pumping station	
- TMF Facilities and equipment	
- electrical	
- instrumentation and control	
Total:	\$33,590,000

PUBLIC HEARINGS

**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: 26 November 2012
FROM: Jim Markley, Water Department Superintendent
SUBJECT: **Water Comp Plan: Acceptance of plan and setting of public hearing for water rate and fee increases.**

DECISION POINT: Staff is requesting acceptance of the comprehensive plan and the setting of a hearing for revised water rates/fees. We will make a presentation at the meeting to review the highlights of the plan and to address any questions.

HISTORY: The first water comprehensive plan was produced in 1987. It has been updated many times since then, most recently in 1999 and 2007. The purpose of these periodic updates is to evaluate the criteria used and to reflect any changed conditions. As needs change and as the system matures, the plan is adjusted.

FINANCIAL ANALYSIS: The update was included in the approved financial plan and will be completed within budget.

PERFORMANCE ANALYSIS: We periodically review and update the water comprehensive plan so we can know where the water system is going and to identify when we get there. In that process, among other things: the existing plan is revisited, assumptions tested, a hydraulic analysis conducted, and financial elements recalculated. We began this process earlier in the year a consultant was selected and work began in April. The document is now complete and we are looking to present it to the Council and ask for its approval and adoption. In the financial portion we would like to set a public hearing to go over rate and fee increases.

QUALITY OF LIFE ANALYSIS: Without a current comprehensive plan we cannot know that the water system will meet the long term needs of the City or that the rates/fees levels are appropriate and sustainable. These things are necessary to ensure that we are meeting the needs of both our current and our future customers

DECISION POINT/RECOMMENDATION: ~~Staff requests committee recommendation for Council approval of the water comprehensive plan on December 4th, 2012 and the setting of a public hearing for January 2nd, 2013 for approval rate and fee changes.~~

Amended recommendation: Staff requests a committee recommendation for Council approval of the water comp plan and setting of a public hearing for rate & fee changes for January 2, 2013.

November 26, 2012
PUBLIC WORKS COMMITTEE
MINUTES
4:00 p.m., Library Community Room

COMMITTEE MEMBERS PRESENT

Council Member Woody McEvers
Council Member Dan Gookin
Council Member Deanna Goodlander

STAFF PRESENT

Amy Ferguson, Executive Assistant
Terry Pickel, Asst. Water Supt.
Jon Ingalls, Deputy City Administrator
Warren Wilson, Deputy City Attorney
Jim Markley, Water Supt.
Sid Fredrickson, WW Superintendent
Troy Tymesen, Finance Director
Dion Holton, Utility Supervisor

GUESTS

Steve James, JUB
Angie Sanchez, FCS Group

Item 1 Request to Declare Used 650 H.P. Diesel Auxiliary Engine, Amarillo Right Angle Gear Drive, and 1986 C70 6-Yard Dump Truck as Surplus Property

Consent Calendar

Dion Holton, Utility Supervisor, presented a request that Council declare an auxiliary diesel engine, right angle gear drive assembly, and dump truck as surplus property and authorize staff to sell it at auction.

Mr. Holton stated in his staff report that the auxiliary diesel engine and right angle gear drive assembly were originally installed at the Atlas Well in 1987 as a backup power source in case of a grid power failure. The engine and gear drive assembly have since become obsolete with repair parts unobtainable or extremely difficult to find. The diesel engine requires a 250 gallon diesel fuel storage tank be kept onsite, creating the possibility of contamination to the well and aquifer. The equipment has recently been removed from the Atlas Well House and is currently stored at the Water/Street complex. The Water Department staff believes that the best return from the gear drive and engine would be to send it to auction.

The staff report further states that the 1986 C70 6-Yard dump truck is in need of major repairs. The dump truck is under-powered and under-sized for the Water Department's current needs. In addition, it was in constant need of costly repairs and is starting to become a safety issue. The city's Shop Supervisor evaluated the dump truck and stated that it is too far past its prime to cost effectively keep in the city fleet. No other city departments have shown interest in the dump truck. It is no longer being used and has been replaced by two other dump trucks.

The declaration of surplus of the engine and right angle gear drive will not have a financial impact as the assembly has not been used in many years. The declaration of the dump truck as surplus will also not have a financial impact on the city.

Councilman McEvers asked if the well had auxiliary power now. Mr. Holton said that it does not, but it is scheduled to receive a new motor control panel that will have a plug for a generator, which will be more efficient. Mr. Markley confirmed that if the well goes down now, they have other generators in other wells that they could use. Mr. Holton also noted that the Atlas well is primarily used in the summer and is off during the winter.

MOTION by McEvers, seconded by Gookin, to recommend Council declare the above-mentioned property as surplus and authorize staff to dispose of it by auction. Motion carried.

Item 2 Declaration of Sole Source Procurement for Allen-Bradley Electrical Equipment and Software

Consent Calendar

Terry Pickel, Wastewater Superintendent, presented a request for council to authorize staff to publish a declaration for sole source procurement for Allen-Bradley electrical equipment and software for Coeur d'Alene wells.

Mr. Pickel stated in his staff report that compatibility of equipment is of paramount consideration for electrical equipment and software in the Coeur d'Alene wells. Being able to rapidly and efficiently get wells back in service when they break down is necessary to meet state and federal requirements as well as to meet the needs of our customers. The Allen Bradley equipment will meet this requirement because all of the city wells have at least some Allen Bradley equipment. For this reason the Water Department is trying to standardize its electrical equipment, which would reduce the need for parts for needed repairs, equating to less down time, less interrupted service to the customer, and better fire protection. In addition, Allen-Bradley carries a complete line of products that applies to the city's applications and carries replacement parts that are needed for repairs with no complications. Allen Bradley also guarantees 24-hour replacement of non-specialty items or equipment and software. Allen Bradley equipment is also more user-friendly than other manufacturers, which equates to ease of operation, less time for repair, and less training for personnel.

Idaho code allows the city council to declare sole source procurement where the compatibility of equipment, components, accessories, computer software, replacement parts, or service is of paramount consideration.

Mr. Pickel said that in 2005 they went before the council and asked to have Allen Bradley declared the sole source for the electrical equipment and software for their wells. This request is just a for a council reaffirmation of its declaration of sole source.

Councilman McEvers asked if there was a requirement to reaffirm Allen Bradley as a sole source vendor. Mr. Pickel explained that they felt they should seek reaffirmation because of the new councilmembers.

MOTION: Motion by Gookin, seconded by McEvers, to recommend Council authorize staff to publish a declaration for sole source procurement of Allen-Bradley equipment for Coeur d'Alene wells. Motion carried.

Item 3 Water Comp Plan: Acceptance of Plan and Setting of Public Hearing for Water Rate and Fee Increases

**Consent Calendar (Setting of Public Hearing)
Agenda (Water Plan, Rates & Fees – January 2nd)**

Jim Markley, Water Department Superintendent, prepared a request for council acceptance of the Water Comprehensive Plan and the setting of a hearing for revised water rates/fees.

Mr. Markley stated in his staff report that the first Water Comprehensive Plan was produced in 1987. It has been updated many times since then, most recently in 1999 and 2007. The purpose of these periodic updates is to evaluate the criteria used and to reflect any changed conditions. As needs change and as the system matures, the plan is adjusted. The update was included in the approved financial plan and will be completed within budget.

The staff report further stated that without a current comprehensive plan, the city cannot know that the water system will meet the long-term needs of the city or that the rates/fees levels are appropriate and sustainable.

Mr. Markley stated that this is an update of the 1999 Comp Plan. Steve James and Angie Sanchez presented a powerpoint overview of the highlights of the plan. Mr. James noted that virtually all of the major improvements in the 1999 plan have been implemented. He reviewed the project objectives which include a comprehensive understanding of the existing system, vision and planning, five year capital improvement, and rate adjustments. Key tools include the water system comp plan, development guidelines, water conservation plans, and financial analysis. In 2013 or 2014 the city will need to add a well and in 2017 or 2018 they will need to add another well. Mr. James reviewed the recommended improvements that will need to be made in the water distribution system over the next 20 years.

Ms. Sanchez discussed the financial plan and said that the city needs to ensure that its rates are sufficient in order to meet its objectives. They looked at operating expenses, capital costs, and financial targets. The overall goal of the financial plan is to develop a rate strategy that balances physical needs with customer impacts.

Ms. Sanchez explained that at existing revenue levels there is a deficiency in 2013. Over time, if nothing is done, that deficiency would increase to \$1.2M in 2017. She reviewed the current rates and proposed a 2.5% increase in 2013, followed by a 4.9% increase in years 2014 through 2018, and then a decreased rate increase after that of around 2%. The increase is inflation-based. Ms. Sanchez confirmed that Reviewed current rates. Proposed 2.5% increase in 2013, followed by 4.9% increase in years 2014 through 2018, and then a decreased rate increase after that of around 2%. Increase is inflation based. Angie confirmed that during the front end of the rate increases, they are meeting some financial requirements, system reinvestment, and depreciation funding. Once those objectives are accomplished, then the rates can increase at a slower pace. Right now the rates do not have the capacity to fund all of the capital funding needs.

Mr. Markley said that the city's philosophy is to design for peak flow. He explained the block rate system that the city uses which charges a base rate, and then a charge depending on the amount of water that is used.

Ms. Sanchez said that they want the Water Comprehensive Plan to be a living document, being updated and compared internally over time so that it will meet the needs of the city. Mr. Markley explained that the plan takes the city pretty close to build out, and in five years they expect to do a pretty detailed rate analysis. Mr. James noted that because of the way development happens, you have to have the infrastructure in place before the development comes.

Ms. Sanchez demonstrated that Coeur d'Alene water rates are still low compared to other purveyors. She also reviewed the CAP Fee structure and proposed a 5.5% per year increase in the CAP fee. She noted, however, that CAP fees are still a bargain compared to other entities.

Councilman Goodlander commented that Mr. Markley has done a great job working with low impact landscaping. She also noted that capacity is important as it affects insurance rates.

Councilman McEvers asked about the possibility of a workshop with council. Councilman Goodlander said that this request has already been presented to the NIBCA and is not a surprise to the building community. Mr. Markley said he would recommend that the full council set the rate hearing on January 2, 2013, and at that he will make a presentation to the full council at that time.

MOTION: Motion by McEvers, seconded by Gookin, to recommend Council approval of the Water Comprehensive Plan and setting of a public hearing for rate & fee changes for January 2, 2013. Motion carried.

Item 4 Change Order #5 to Spokane River Stewardship Partners MOU
Consent Calendar

Sid Fredrickson, Wastewater Superintendent, presented a request that council authorize Coeur d'Alene's share of ongoing cost for facilitation assistance for the TMDL implementation and the new PCB Regional Toxics Task Force not to exceed \$8,044.

Mr. Fredrickson stated in his staff report that Hubbard Gray Consultants was hired several years ago to assist the Spokane River Stewardship Partners with tackling the issues surround the TMDL and now the toxics task force to reduce the amount of PCBs entering the river. Hubbard Gray is no longer available. RFPs were sent to several consulting firms. Four were interviewed and Dally Environmental LLC was chosen to act as the facilitator for the Spokane River Stewardship Partners. This amendment to the MOU is shared amount the 9 partners and 10 subdivisions. It will allow facilitation services until the end of 2013. By then it is anticipated that all permits will be final and the toxics task force will be solidly in place. The requested cost is budgeted under "permit assistance."

Mr. Fredrickson said that PCBs will be a major issue as the years go on. Councilman Gookin asked if this was going to bring consistency between all of the agencies so that Spokane will have to follow the same rules that the city has to follow. Mr. Fredrickson said that is the goal and that what has been achieved to date is a milestone in its own right in that the city has finally come to an agreement on which test method it will use. He also explained that PCBs are ubiquitous and are in everything. When they receive their draft permit, they will have one year to furnish a draft PCB management plan to the state.

MOTION: Motion by Gookin , seconded by McEvers, to recommend that Council approve Resolution 12-050 authorizing the City of Coeur d'Alene's share of on-going costs for facilitation assistance for the TMDL implementation and the new PCB Regional Toxics Task Force through the end of 2013, not to exceed \$8,044. Motion carried.

The meeting adjourned at 4:52 p.m.

Respectfully submitted,

Amy C. Ferguson
Public Works Committee Liaison

RESOLUTION NO. 13-004

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AMENDING THE RULES AND REGULATIONS OF THE COEUR D' ALENE WATER DEPARTMENT AS TO RATES, SCHEDULES AND CHARGES.

WHEREAS, pursuant to Coeur d' Alene Municipal Code Section 13.04.130, the City of Coeur d'Alene has reviewed the water service fees, rates, schedules, and charges currently in effect in the city, and a public hearing has been held on the proposed amended rates, schedules and charges; and

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof that the water fees, rates, schedules and charges contained in the attached Exhibit "A", which by this reference is incorporated herein, be adopted to ensure that the operations of the water utility is self-sustaining; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that water fees, rates, charges and schedules established in Resolution No's 08-064, 09-050, and 11-004 are repealed effective March 1, 2013. All other fees established by those resolutions remain in full force and effect, and

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the fees, rates, charges and schedules outlined in Exhibit "A" be and hereby are adopted, and

BE IS FURTHER RESOLVED, that such amended rates, schedules, and charges be effective on March 1, 2013; and

BE IT FURTHER RESOLVED, that three certified copies of the Water Rates, Schedules, and Charges as herein adopted, will be kept on file with the City Clerk of the City of Coeur d'Alene.

DATED this 2nd day of January, 2013

Sandi Bloem, Mayor

ATTEST:

Renata McLeod, City Clerk

Motion by _____, Seconded by _____,
to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER ADAMS Voted _____

COUNCIL MEMBER GOODLANDER Voted _____

COUNCIL MEMBER KENNEDY Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER EDINGER Voted _____

_____ was absent. Motion _____.

EXHIBIT "A"

Water Rates, Schedules, and Charges for the City of Coeur d'Alene Water System

SCHEDULE 1: WATER RATES

A. Metered Services

METERED RATES

Cost of Service Water Rates

Meter Size	Current	Approved Future Rate Increases					
	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
3/4"	\$6.51	\$6.67	\$7.00	\$7.34	\$7.70	\$8.08	\$8.48
1"	\$7.17	\$7.35	\$7.71	\$8.09	\$8.49	\$8.91	\$9.35
1-1/2"	\$8.04	\$8.24	\$8.64	\$9.06	\$9.50	\$9.97	\$10.46
2"	\$10.45	\$10.71	\$11.23	\$11.78	\$12.36	\$12.97	\$13.61
3"	\$28.19	\$28.89	\$30.31	\$31.80	\$33.36	\$34.99	\$36.70
4"	\$34.77	\$35.64	\$37.39	\$39.22	\$41.14	\$43.16	\$45.27
6"	\$50.10	\$51.35	\$53.87	\$56.51	\$59.28	\$62.18	\$65.23
8"	\$67.62	\$69.31	\$72.71	\$76.27	\$80.01	\$83.93	\$88.04
10"	\$87.33	\$89.51	\$93.90	\$98.50	\$103.33	\$108.39	\$113.70

Volume Rates (\$/1,000gal)

Class	Current	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Residential (0-30,000 gals)	\$0.72	\$0.74	\$0.78	\$0.82	\$0.86	\$0.90	\$0.94
Residential (Over 30,000 gals)	\$1.04	\$1.07	\$1.12	\$1.17	\$1.23	\$1.29	\$1.35
Non-Residential	\$0.63	\$0.65	\$0.68	\$0.71	\$0.74	\$0.78	\$0.82
Irrigation-Only	\$0.84	\$0.86	\$0.90	\$0.94	\$0.99	\$1.04	\$1.09

Definitions:

Residential

Includes single-family dwellings or single permanent mobile homes on individually platted lots and duplexes. Includes former class: Residential.

Non-Residential

Includes all government and public agencies (City, County, State, Federal, and Schools), commercial, and industrial users. Also included are Hospitals, RV and Trailer Park users. Includes former classes: Multi-Family, Mobile Home Park, Government, Commercial.

Irrigation-Only

Water consumed specifically for outdoor usage only.

Note

Users which are covered in more than one of the classifications above will be charged the highest commodity charge of their user classification for all water use.

EXHIBIT "A"

B. Rates For Private Fire Sprinkler, Fire Hydrant, And Hose Service

PRIVATE FIRE LINE RATES

Applicability:

Customers who have private fire hydrants, sprinkler systems and/or inside hose connections for firefighting purposes.

Monthly Rates:

For unmetered service through a separate line for firefighting purposes:

<u>SERVICE SIZE</u>	<u>MONTHLY RATE</u>
1.5" or smaller	\$6.60
2"	\$6.60
3"	\$6.60
4"	\$8.80
6"	\$13.17
8"	\$17.57
10"	\$21.95
12"	\$26.39

C. Bulk Water Use.

RATES AND FEES FOR THE PERMANENT STATIONS

Contractors using the permanent stations shall pay the following:

- \$25.00 dollar key deposit to begin using the permanent stations.
- \$1.11 per 1000 gallons of bulk water drawn from the stations, billed monthly.

RATES AND FEES FOR THE PORTABLE STATIONS

Contractors using the portable stations shall pay the following:

- A monthly rental fee of \$25.00 with a minimum of one month rental.
- An installation fee of \$100.00 for installation and reading by City personnel.
- Damage deposit of \$1000.00
- \$.70 per 1000 gallons of bulk water drawn from the stations, billed monthly.

EXHIBIT "A"

SCHEDULE 2: CAPITALIZATION FEES

WATER CAPITALIZATION FEES

A capitalization fee will be assessed for every separate metered service connection to a water pipeline.

CAPITALIZATION FEE SCHEDULE

Cap Fees	Current Fees	March/April 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
<u>Meter Size:</u>							
3/4"	\$2,045	\$2,157	\$2,276	\$2,401	\$2,533	\$2,672	\$2,819
1"	\$3,467	\$3,602	\$3,801	\$4,010	\$4,230	\$4,462	\$4,708
<u>Service Size:</u>							
Existing Only 1-1/2"	\$6,759	\$7,183	\$7,579	\$7,995	\$8,435	\$8,898	\$9,387
2"	\$10,849	\$11,497	\$12,131	\$12,797	\$13,501	\$14,242	\$15,025
3"	\$20,451	\$23,015	\$24,285	\$25,619	\$27,027	\$28,510	\$30,079
4"	\$34,144	\$35,957	\$37,941	\$40,025	\$42,225	\$44,542	\$46,993
6"	\$68,112	\$71,893	\$75,859	\$80,025	\$84,425	\$89,058	\$93,957
8"	\$109,014	\$115,033	\$121,379	\$128,045	\$135,085	\$142,498	\$150,337
10"	\$195,122	\$165,377	\$174,501	\$184,085	\$194,205	\$204,862	\$216,133

Note: 1 1/2" service stubs are no longer allowed.

Service size(s) & meter size(s) must be indicated in order to process permit applications. Fees to be paid at the time of building permit issuance.

Any structure designed to house one family shall be defined as a "dwelling unit". Any structure designed to house more than one family, or any facility with one meter which is used to provide service to more than one structure will be assessed the capitalization fee of the greater of either \$360.00 per dwelling unit, or the capitalization fee of the installed meter.

Capitalization fee for a mobile home park, where water service is provided by a master meter, will be assessed on the higher cost of either \$360.00 per unit, or the capitalization cost of the installed meter. Mobile home parks or subdivisions with individual metered services will be assessed the capitalization fee for each meter size installed for each unit.

EXHIBIT "A"

SCHEDULE 2: CAPITALIZATION FEES - continued

PRIVATE FIRE LINE FEES

Applies to all customers who have sprinkler systems and/or inside hose connections for firefighting purposes.

For unmetered service through a separate line for firefighting purposes, the following cap fees shall apply:

<u>SERVICE SIZE</u>	<u>CAPITALIZATION FEE</u>
3" or smaller	\$484
4"	\$968
6"	\$1,936
8"	\$2,903
10"	\$4,839
12"	\$6,049

If the installation of a private fire service requires an extension of the existing mains of the utility, such extension shall be at the customer's cost.

All private fire services shall be equipped with resilient seated gate valves at the main. State approved backflow prevention must also be installed on each fire service.

Meters may be placed on fire services by the utility at any time; however, metered rates will not apply unless improper use of water is disclosed, and if such be the case, usage will be billed to the consumer based on the Commodity Charge rate schedule.

EXHIBIT “A”

SCHEDULE 3: HOOK UP FEES

WATER HOOKUP FEES (Only due if City installs Service)

(Labor & Materials)

Standard service hookup fee schedule (by size) complete from main to adjoining property line, including meter, meter box, and setting:

<u>METER SIZE</u>	<u>HOOKUP FEE</u>	<u>ASPHALT CUT</u>
3/4"	\$1930.00	\$950.00
1" or less	\$2050.00	\$950.00
1-1/2"	\$4280.00	\$950.00
2"	\$4580.00	\$950.00

Radio read MXU equipment fee = \$130.00 for all services (whether city installed or not).

If a sidewalk panel must be removed, an additional panel replacement fee of \$500 may be charged.

NOTE: 1 ½" hookup fees include a 2" service tap and will be billed a 2" Capitalization Fee

Where a service hookup is other than standard, costs may be calculated by the City to represent actual costs.

The HOOKUP FEE is a separate fee paid in addition to the CAPITALIZATION FEE.

Hookup may be made by a private contractor or licensed plumber to City specifications.

EXHIBIT “A”

SCHEDULE 4: BILLING DELINQUENCY CHARGES

TAG FEE: A \$25.00 fee will be charged for the delivery of a disconnection notice to the services address for nonpayment.

SHUT OFF: A \$25.00 fee will be charged to physically terminate water service for nonpayment.

Past due utility fees and charges shall be paid in full before the customer's service will be turned on.

EXHIBIT “A”

SCHEDULE 5: SERVICE CALL FEES

AFTER HOURS CALL OUT FEES

Calls after hours to have a service turned on or off will be charged an \$80.00 call out fee. Service personnel have call out forms for the customer to sign; the fee will then be added to the utility account.

In the event of a plumbing emergency such as a service or customer water line break that occurs after hours that cannot be controlled with the customer’s valve, there will be a \$40.00 call out fee assessed. Service personnel will have a call out form for the customer to sign; the fee will be added to the utility account.

These charges need to be agreed upon by the customer before service personnel go to the property to perform the work. Service personnel shall be responsible for completion of the call out billing form and getting the customer’s signature, if possible.

SPECIAL METER READING FEE

A \$10.00 fee will be charged for special meter readings for customer benefit (such as reading other than at normal times).

L.I.D. 151

RECEIVED

DEC 27 2012

CITY CLERK

GORDON SCOTT
601 E FRONT AVE STE 1002
COEUR d'ALENE, ID 83814

208 765 3697

12/27/12

City Clerk
City of Coeur d'Alene
710 E Mullan
Coeur d'Alene, Id 83814

Re: Protest LID No. 151

Dear City Clerk,

I am protesting LID 151 for the following reasons:

NO BENEFIT NO ASSESSMENT

The building I live in already has 20 sidewalk trees each up-lighted by lights set in the sidewalk, additional outdoor landscaping, all irrigated and colored sidewalks all installed by the developer and paid for by the residents when they purchased their units. We do not want to pay for this again and we do not want to pay for similar amenities in front of buildings owned by others. The additional parking does nothing for us since we each have two indoor spaces in the building. In fact, the additional parking is a detriment to us since it brings additional traffic, congestion and noise to the area in front of our homes.

THE GRAND DECEPTION

The McEuen Park Plan was discussed for months and months. We were told over and over again that the Front Avenue improvements were part of the plan (attachment A). We were told that the Front Avenue improvements were the same improvements you want to include in the LID (attachment B). We were told all the funding was in place (attachment C). Now you tell us that all of what you previously told us is not true and an LID is required. At no time during all of the endless meetings on the McEuen Park Plan did you ever mention that an LID would be required. Obviously someone in the great city hall bureaucracy knew they were going to spring this last minute surprise on us but said nothing. This is an act of deceit of the highest order.

Which City Council Members knew of this impending LID, said nothing, and thus became part of this deception?

Which City Council Members believed the City's presentations that the Front Avenue improvements were part of the overall McEuen Park Plan for which funding was in place? These Members were duped, as was the public, by the City Administrator and City

Staff.

MYSTERY ACCOUNTING

Your notice invited us to comment on “the manner of assessment” but did not inform us of how the assessment was calculated.

1. LCDC was formed to rebuild McEuen Park, the Front Avenue improvements are part of the McEuen project (again attachment A), the 2005 estimates to reconstruct Front Avenue had LCDC as a funding partner. What is LCDC's share of funding the current Front Avenue reconstruction?
2. Does someone on the 19th floor of Parkside pay the same as someone on the 6th floor?
3. Do Parkside residents, who receive no benefit, pay the same as Parkside commercial tenants, who will benefit from the additional parking?
4. One statement made at a city council meeting was that even though landscaping improvements will not be made in front of our building we will benefit from improvements “made further down the street”. How much will McEuen Terrace residents pay for improvements “made further down the street”?
5. Will a Parkside resident who does not face Front Avenue pay the same as one who does face Front Avenue?
6. In essence the only benefit a Parkside resident receives is the overlay of the street and there is an overlay fund. Why is this not being used?
7. The property tax bill I just received shows that of my total taxes \$7,955.00 goes to “06 CDA URD” or LCDC. LCDC obviously has the money so why not use it as intended?
8. The 7/13/05 Front Avenue Reconstruction Project Estimate was \$490,550 and the current estimate is \$2,900,000. Is this due to the fact that when you are spending other people's money there is no incentive to control costs?

For all of the above reasons this proposed LID on residences should not be adopted.

Sincerely



Gordon Scott

PARK AMENITIES IN TODAY'S MASTER PLAN

- Park space expands from 15 acres to 20 acres
- Mass Grading and Utilities
- Front Avenue Roadway improvements from 3rd to 7th.
- Front Ave. Parking Structure
- Pavilion/restroom near playground
- 3rd St. Boat Launch Transition and Seawall Enhancements
- Grand Plaza and Waterfront Promenade
- Amphitheater (no stage)
- Centennial Trail from 3rd to 8th Street
- Veteran's Memorial relocation and improvements
- Playground and Splashpad
- East Parking Lot

FRONT AVENUE IMPROVEMENTS

- ✘ Street and Sidewalk Alignments including diagonal parking and two way traffic, bike lane, pedestrian lane, entrance/exit into and out of park
- ✘ Intersection Design and Street Crossing
- ✘ Lighting, Landscaping and Signage
- ✘ Promenade with hardscape design, street furniture, planters, drainage, railings

BUDGET

• Mass Grading:	\$ 1,393,270
• Park Development:	\$ 2,194,780
• Front Ave. Imp. & Promenade	\$ 1,072,550
• Parking Structure:	\$ 7,305,405
• East Parking Lot	\$ 323,950
• A & E/Const. Services	\$ <u>1,956,177</u>
• Total:	\$ 14,246,132
• Available Funds:	\$ 13,924,800
• (LCDC, Parking Fund, Parks CIF, NICTF)	